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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 78/2014 & CM APPL. 139/2014

M/S MITTAL OIL MILLS PVT. LTD. Petitioner
Through: Mr. Vaibhav Kalra, Advocate.

versus

REGISTRAR OF COPYRIGHT & ANR Respondents
Through: Ms. Abha Malhotra, Advocate for
respondent No.1.
Mr. Navroop Singh and Mr. H .P. Singh,
Advocates for respondent No.2.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

ORDER
28.01.2016

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Today, typographical mistakes have been pointed out by learned counsel for respondents in the order dated 06th January, 2014. The same have been corrected after initialling the same.

It is pertinent to mention that the present writ petition has been filed with the following prayers:-

- i) *call for the records of the case from the Respondent no.1 regarding grant of certificate of copyright dated 17.01.2012.*
- ii) *quash the certificate dated 17.01.2012 granted to the Respondent No.2 by the Respondent No.1 vide Diary No.9241/2010/CO/A as the same has been granted in violation of the procedure prescribed under the Section*

45 of the Copyright Act 1957 read with Rule 16 of the Copyright Rules 1958 and also in violation of the principles of natural justice.

- iii) direct the Respondent no.1 to grant the Petitioner a hearing and conduct a proper inquiry before deciding the application for registration of the copyright of the label "POSTMAN" under clause 29 filed by the Respondent no.1 as contemplated under Rule 16 sub rule (5) of the Copyright Rules 1958.*
- iv) pass any such other and further order(s)/directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

This Court vide a detailed order dated 06th January, 2014 had restrained the respondent No.2 from using the word/mark/device/label 'POSTMAN' in the category of edible oils pursuant to the Certificate of Registration dated 17th January, 2012 issued by respondent No.1.

After hearing the parties at some length, the admitted position that emerges is that respondent No.2 had failed to comply with the mandatory provision of Rule 16(3) of the Copyright Rules, 1958 as it then stood, whereby respondent No.2 was required to give notice of his application seeking registration of Copyright to the petitioner as respondent No.2 was well aware that the petitioner would be affected by the grant of Copyright Certificate.

Consequently, the Certificate dated 17th January, 2012 granted to the respondent No.2 by respondent No.1 in violation of principles of natural justice is set aside.

Respondent No.1 is directed to reconsider the respondent No.2's application after giving an opportunity of hearing to the petitioner in accordance with law.

With the aforesaid direction, present writ petition and application stand disposed of.

MANMOHAN, J

JANUARY 28, 2016

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