

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.517 OF 2017

Chutraram Nemaram Gehlot

...Petitioner

vs.

Union of India and Another

...Respondents

Mr. Alankar Kirpekar i/b. MAG Legal, for the Petitioner

Mr. A.A. Garge, for Respondent No. 1.

**CORAM : SHANTANU S. KEMKAR &
A. M. BADAR, JJ.**

DATE : APRIL 26, 2017

P.C.:

. By filing this Petition under Article 226 of the Constitution of India, the Petitioner is seeking writ of Mandamus directing the Respondents to grant restoration and or renewal of Petitioner's Trade Mark NISHA SOAP bearing Trade Mark No. 471462 dated 28th April, 1987 in Class 3. According to the Petitioner, the Petitioner has not been served under Section 25(3) of the Trade Marks Act, 1999 notifying the date of expiration and the conditions as to payment of fees and even otherwise upon which a renewal of registration obtained.

2. In the circumstances, the learned counsel for the Petitioner in view of the law laid down by the Division Bench of this

Court in the case of **CIPLA Limited vs. Registrar of Trade Marks, Writ Petition No. 1669 of 2012, dated 16th September, 2013** and in the case of **Elder Pharmaceuticals Limited vs. The Registrar of Trade Marks, Writ Petition (L) No. 1683 of 2014, dated 18th July, 2014** wherein it is held that *“removal of the marks from the register if contrary to Section 25 of the Act and in particular Sub section 3 thereof and Rule 64(1) of the Trade Marks Rule, 2002 the action of the Respondents cannot be sustained.”*

3. Having considered the submissions made by the learned counsel for the parties and having gone through the uncontroverted affidavit (Exhibit “D”) of the authorized representative of the Petitioner stating therein that *“I further say that after that may firm has never ever till date received any O3 notice i.e. intimation for renewal for the registered Trade Mark “Nisha” from the Trademark Registry Mumbai”* we are of the view that the Petition deserves to be allowed as the question involved is squarely covered by the judgment passed by the Division Bench of this Court in the case of **CIPLA Limited** and **Elder Pharmaceuticals Limited** (supra).

4. Accordingly we allow the Petition and direct the Respondents to grant restoration and renewal of Petitioner's Trade Mark NISHA SOAP bearing Trade Mark No. 471462 dated 28th April, 1987 in Class 3 within four weeks on the Petitioner's paying requisite charges and complying the requisite formalities in accordance with law.

5. The Petition stands disposed of as such.

(A.M. BADAR, J.)

(SHANTANU S. KEMKAR, J.)