

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.01.2017

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THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.Nos.14789 & 15782 of 2016
& WMP. Nos. 12908 & 12909 & 13706 of 2016

W.P.No. 14789 of 2016 :

1 A.Arivazhagan ... Petitioner

Vs

1. The Registrar of Trade Marks
Intellectual Property Building,
Anna Salai, Guindy Industrial Estate,
Guindy, Chennai- 600 032.
- 2 The Controller General of Patents
Designs and Trademarks,
Boudhik Sampada Bhawan,
S.M.Road, Antop Hill,
Mumbai- 400 037.

... Respondents

W.P.No. 15782 of 2016 :

1 P.C.N.Raghupathy ... Petitioner

Vs

- 1 Union of India
Rep.by the Secretary,
Ministry of Commerce & Industry
Department of Industrial Policy &
Promotion, Udyog Bhawan,
New Delhi-011

- 2 The Controller General of Patents
Designs & Trade Marks
O/o.The Trade Marks Registry,
Boundhik Sampada Bhawan,
S.M.Road Antop Hill Mumbai-37.
- 3 The Deputy Registrar
O/o.The Trade Marks Registry Intellectual
Property Rights Buildings Industrial Estate
GST Road Guindy Chennai-32.

... Respondents

Prayer in W.P.No.14789 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of declaration declaring that the abandonment of the applications cited in the Annexure hereto to be invalid and illegal and direct the Respondents to pass orders on the 940 Trade Mark Applications set out in the Annexure hereto after communicating objections if any, and upon granting a personal hearing in accordance with law.

Prayer in W.P.No.15782 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of mandamus directing the respondents to restore the status in the e-register in respect of 511 abandoned Trade Mark applications described in the Schedule annexed herewith in order to reflect the factual position in electronic form prior to 20th March 2016 for the purpose of initiating any other proceedings under the Act and rules to be exercised under the Rule 4(b)(i) of Trade Marks Rules 2002 by giving an opportunity of being heard at Chennai Branch Registry in accordance with the Principles of natural justice emphasized under Sec.23(3) 128 and 132 of the Trade Mark Act 1999 read with 106 and 111(2) of the said Rules.

For Petitioner : Mr.R.Satishkumar

For Respondent-1
in W.P.No.15782/16 : Mr.K.Ramanamoorthy

For Respondents 2 & 3
in W.P.No.15782/16 &
respondents in W.P.No.
14789/16 : Mr.Venkataswamy Babu, SPL

COMMON ORDER

Petitioners have come up with these two writ petitions with the aforesaid prayers. Since the issue involved in both the writ petitions are one and the same they were taken up together.

2. When these two writ petitions were taken up for hearing, learned counsel for the petitioners would submit that pursuant to the filing of these writ petitions, the applications have now been restored and the same had been endorsed in the counter affidavit. Learned counsel for the petitioner would also state that the main ground raised in these writ petitions is that an opportunity of hearing should have been provided to the petitioners as per Rule 111 of Trademarks Act, 2002. At this point of time, he would urge that the petitioners are not raising any ground on the point of Rule 38(5) of the Act at present.

3. Heard the learned counsel for the respondents and perused the counter affidavit.

4. Admittedly, the opportunity of personal hearing had not been provided to the petitioners and as per Section 111 of the Trademarks Act, 2002 the hearing will have to take place at the appropriate office of the Trade Mark Registry or at such place within the territorial jurisdiction as the Registrar may deem it proper. In view of the above, since Section 111 of the Trademarks Act, 2002, contemplates, the respondents are hereby directed to provide an opportunity of personal hearings at the appropriate place and the enquiry will be held and orders will be passed in accordance with law as expeditiously as possible.

5. With the above observations, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

31.01.2017

Index : Yes / No
Internet : Yes/ No
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To

1. The Chairman and Managing Director
Chennai Metro Rail Ltd.,
CMRL Depot, Admin Building,
Poonamallee High Road,
Koyembedu, Chennai-600 107.
2. Mosmetro India Pvt. Ltd.
Having its Registered office at ASV Adarsh
Building, 3rd Floor, Block C No.719
Pathari Road, Chennai-600 002.
3. Gammon-OJSC Mosmetrostroy (JV)
ASV Adarsh Building 3rd Floor Block C No.
719 Pathari Road Chennai-2.
4. OJSC Mosmetrostroy
Tzvetnoy 17 Moscow Moscow Russian
Federation.

B.RAJENDRAN, J.

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W.P.Nos.14789 & 15782 of 2016

31.01.2017

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