

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:18.09.2017

CORAM

THE HONOURABLE MR. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR. JUSTICE P.D.AUDIKESAVALU

W.P.NO.161 OF 2016

1. Muthukani Diravidakani
Trading as M/s Anil Appalam & Chips
4-B/28,Chinthamani Cross Road,
China Anupanady,
Madurai - 625 009
 2. Rakkappan Muthukani
Trading as M/s Anil Appalam & Chips
4-B/28,Chinthamani Cross Road,
China Anupanady,
Madurai - 625 009
- ... Petitioners

Vs.

1. K.S.Raja
 2. The Registrar of Trade Marks
Trademark Office,
GST Road, Guindy,
Chennai - 600 032
 3. The Registrar,
Intellectual Property Appellate Board,
Guna Complex, Annexe-1, 2nd Floor,
443, Anna Salai, Teynampet,
Chennai.
- .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus in calling for the records pertaining to the Impugned Order dated 03.06.2013 in so far as the same pertaining to the ORA/247/2010/TM/CH issued by the 3rd Respondent and quash the same being illegal arbitrary and improper and further directing the 2nd Respondent to restore the Registration of the Trade Mark of the Petitioners in their application in 687449 in the Trade Mark Register confining the same to territories all over India excluding the State of Tamilnadu and

Pondicherry without prejudice to the rights of the petitioners to seek appropriate relief in respect of the State of Tamilnadu and Pondicherry.

For Petitioners : Mr.T.Sundaranathan

For Respondents : Mr.Rajendra H.Bhansali for
Mr.P.T.Perumal for R1
Mr.T.V.Krishnamachari for R2 & R3

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

Today, a memo dated 01.09.2017 is filed on behalf of the Petitioners. A cursory perusal of the contents of the Memo latently and patently indicates that the Petitioners are seeking permission of this Court to file a Review Petition as against the Order dated 03.06.2013 in ORA/247/2010/TM/CH passed by the 3rd Respondent / Intellectual Property Appellate Board, Chennai. For granting permission to the Petitioners in this regard, the 1st Respondent's Learned Counsel has no objection in the subject matter in issue.

2. Taking note of the fact that Rule 23 of Intellectual Property Appellate Board (Procedure) Rules, 2003 enjoins the filing of Review Petition as against the Order of an Appellate Board / 3rd Respondent, in the instant case, this Court grants permission to the Petitioners accordingly to file a Review Petition before the 3rd Respondent / Intellectual Property Appellate Board, Chennai in regard to the Impugned Order in ORA/247/2010/TM/CH dated 03.06.2013 within a period of two weeks from the date of receipt of a copy of this order. This Court grants only two weeks time to the Petitioners to file a Review Petition because of the reason that the Rule 23 of Intellectual Property Appellate Board, (Procedure) Rules, 2003 contemplates filing of an Review Petition within a period of two months from the date of Order being passed by the Appellate Board.

3. In as much as this Court has granted permission to the Petitioners to file a Review Petition as against the Order dated 03.06.2013 in ORA/247/2010/TM/CH seeking rectification of the Trade Marks Register, this Court directs the 3rd Respondent / Registrar, Intellectual Property Appellate Board, Chennai not to insist upon the point of limitation for filing Review Petition, provided the Petitioners files the Review Petition in question, within a period of two weeks from the date of passing of this Order. If such a Review Petition is filed before the 3rd Respondent, it is open to the respective parties to raise all

factual and legal pleas before the 3rd Respondent and to seek redressal of their grievances in the manner known to Law and in accordance with Law.

With the aforesaid observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Registrar of Trade Marks
Trademark Office,
GST Road, Guindy,
Chennai - 600 032
2. The Registrar,
Intellectual Property Appellate Board,
Guna Complex, Annexe-1, 2nd Floor,
443, Anna Salai, Teynampet,
Chennai.

+1cc to Mr.T.V.Krishnamachari, Advocate, S.R.No.67986
+2ccs to Mr.P.T.Perumal, Advocate, S.R.No.67909 (03/11/17)
+1cc to Mr.N.Rajan, Advocate, S.R.No.68431
+1cc to Mr.T.Sundaranathan, Advocate, S.R.No.68659

सत्यमेव जयते

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CS/01/11/17

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