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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 7246/2017

CENTURY 21 TOWN PLANNERS PVT. LTD. Petitioner

Through: Mr Amit Tomar, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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23.08.2017

CM No.30021/2017

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 7246/2017 & CM No.30020/2017

3. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to respondent nos.1 & 2, restraining them from adjudicating and disposing of the application filed by respondent no.3 under Section 16(1)(b) of the Companies Act, 2013 for directing the petitioner to change its corporate name.
4. The learned counsel for the petitioner submits that the said application is not maintainable, *inter alia*, on the ground that it has been filed after the period of three years from incorporation of the petitioner company. He further submits that the fundamental premise on which the application has been filed; that is, that the petitioner's name resembles respondent no.3's

registered trademarks, may also not survive since the petitioner has already moved the Intellectual Property Appellate Board (IPAB) for rectification and removal of the registered trademarks of respondent no.3 on the ground that they have not been used in India. The said application is yet undecided.

5. The petitioner apprehends that respondent nos. 1 and 2 will pass an adverse order even prior to the petitioner's application being decided by the IPAB. It is seen that there is nothing in the present petition which would indicate that such a request was made to the concerned authority (the Regional Director). In the circumstances, the present petition is disposed of by directing the petitioner to move an appropriate application for similar relief before the concerned authority.

6. It is also seen that the petitioner was incorporated in 2006 and, therefore, any application after a period of three years would be *ex facie* beyond the period prescribed under Section 16(1)(b) of the Companies Act, 2013. However, this Court is refraining from making any observation with regard to whether the application filed by respondent no.3 is maintainable as it is expected that the concerned authority will also consider this aspect while considering the application filed by respondent no.3.

7. The petition along with the application is disposed of with the aforesaid observations.

VIBHU BAKHRU, J

AUGUST 23, 2017
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