

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.08.2018

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No. 3387 of 2017
and
W.M.P.No.3370 of 2017

M/s.Chetna Steel Tubes Private Limited
Represented by its Director
Rishab Mehta, No.67, (Old No.32)
Sembudoss Street, George Town
Chennai - 600 001.

... Petitioner

Vs.

1.The Controller General of Patents, Designs & Trade Marks
O/o.The Controller General of Patents, Designs & Trade Marks
Boudhik Sampada Bhavan
Antop Hill, S.M.Road, Mumbai-400 037.

2.The Registrar of Trademarks, Chennai.
Trade Marks Registry
Intellectual Property Building, G.S.T.Road
Guindy, Chennai - 600 032.

3.The Registrar of Trademarks, Kolkata
Trade Marks Registry
Boudhik Sampada Bhavan
Antop Hill, S.M.Road, Mumbai-400 037.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the First Respondent to allow the application for assignment (TM-23) filed by the Petitioner vide dated 28.10.2009 and consequently renew the registration of the Trademark No.106752.

For Petitioner : M/s.Akhil R.Bhansali
For Respondents : M/s.C.V.Ramachandramurthy

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O R D E R

The relief sought for in this Writ Petition is for a direction to direct the First Respondent to allow the application for assignment (TM-23) filed by the Petitioner vide dated 28.10.2009 and consequently renew the registration of the Trademark No.106752.

2.The learned counsel appearing for the Writ Petitioner states that he purchased the Trademark from M/s.Shakthi Tubes

Limited. After the said purchase he filed an application for transfer of Trademark under the provisions of the Trade Marks Act, 1999 in the form TM-23 on 28th October 2009.

3.The grievances of the Writ Petitioner is that the said application submitted by the Writ Petitioner is neither returned nor dealt with in accordance with the provisions of the Trademarks Act. Thus, the Writ Petitioner is constrained to move the present writ petition.

4.The learned counsel for the Respondents opposed the contention by stating that the writ petitioner had filed the application after a lapse of many years and the writ petitioner had filed the application before the wrong forum having no jurisdiction. Thus, the application cannot be entertained at all. In other words, it is contended that the registration of the said trademark now claimed by the Writ Petitioner had already been lapsed in the year 2009.

5.The learned counsel for the Writ Petitioner clarifies that at the time of filing the application on 28th October 2009, it was in live and not lapsed. Thus, the Respondents are bound to consider the case of the Writ Petitioner for transfer of Trademark in their favour based on the application submitted by them on 28th October 2009. This apart, the learned counsel for the Writ Petitioner states that all along the petitioner is pursuing the application. It is informed that the application was sent to Kolkatta.

*** 6.This being the factum of the present case, without going into the merits the matter, the Second Respondent is directed to consider the application for assignment and renewal filed by the petitioner dated 28.10.2009, within a period of eight weeks from the date of receipt of a copy of this order.**

7.Accordingly, this Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. However, there is no order as to costs.

Sd/-

Assistant Registrar(CS IX)

*** in incorporated as per order
dated 13.12.2018 and made in
WP.No.3387 of 2017**

27.09.2018

Sd/-

Assistant Registrar

dated 04.01.2019 //True Copy//

Sub Assistant Registrar

may a

To

1.The Controller General of Patents,
Designs & Trade Marks
O/o.The Controller General of Patents,
Designs & Trade Marks
Boudhik Sampada Bhavan
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Trade Marks Registry
Boudhik Sampada Bhavan
Antop Hill, S.M.Road, Mumbai-400 037.

+1cc to Mr.Akhil R.Bhansali, Advocate, S.R.No.59203
+1cc to Mr.C.V.Ramachandramurthy, Advocate, S.R.No.58490
+1cc to M/s.Akhil R.Bhansali, Advocate in sr.no.86994

**To be substituted
the order already
despatched
on 09.10.2018**

W.P.No. 3387 of 2017

PA(CO)
rrs 28/09/2018
CS/04/01/2019



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