

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.29213 of 2017
and W.M.P.No.31472 of 2017

CommScope Inc. of North Carolina
1100 Commscope Place
S.E.Hickory North Carolina
United States of America
Represented by Authorised Signatory
Laura Johnson Thomas

.... Petitioner

Vs

1.Union of India
represented by its Secretary
Ministry of Commerce and Industry
Department of Industrial Policy & Promotion
Udyog Bhawan
Rafi Ahmed Kidwai Marg
Rajpath Road area, Central Secretariat
New Delhi - 110 011.

2.The Registrar of Trademarks
Trademarks Registry
Bhaudhik Sampada Bhawan
Industrial Estate SIDCO RMD
Godown Area
GST Road
Guindy, Chennai-600 032.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the second respondent to issue fresh Registration Certificate for petitioner's Application No.1380719 with a correct date of sealing and consequently, grant the petitioner a period of three months or such further period as fixed by this Court for filing a renewal request from the date of issuance of fresh Registration Certificate.

For Petitioner : Mr.Rajesh Ramanathan
For Respondents : Mr.B.Sudhir Kumar
Central Government Standing Counsel

ORDER

The petitioner has come up with this writ petition seeking a direction to the second respondent to issue fresh Registration Certificate and consequently, grant the petitioner time for filing a renewal request from the date of issuance of such Registration Certificate.

2.According to the learned counsel for the petitioner, the petitioner has submitted representations dated 28.04.2016, 08.05.2016 and 17.08.2016 before the learned Controller General, Head Trademarks Registry, Mumbai, for issuance of Registration Certificate and also for issuance of the renewal certificate for the trademark. Though the respondents received those representations, they have not chosen to consider the claim of the petitioner. Hence, the petitioner is before this Court.

3.The second respondent has filed a counter affidavit and it is relevant to extract paragraph 5, which reads as follows:

"5.I state with regard to the statements made in paragraph 11 to 17 of the petition it is submitted that the respondents will abide by the order of this Hon'ble Court, if the Court orders to issue fresh registration certificate in respect of Trade Mark No.1380719 in Class 6 and to renew the registration from 17.08.2015 to 17.08.2025 on filing of renewal application on form TM-R by the petitioner with the prescribed fee."

4.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and in the light of the counter affidavit filed by the second respondent, this Court directs the second respondent to correct the error crept in in the Registration Certificate and issue fresh Registration Certificate to the petitioner. On receipt of the same, it is open to the petitioner to submit necessary application for renewal of the trademark, if any, to the respondent, for passing necessary orders.

5.With the above directions, this writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.Union of India
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Department of Industrial Policy & Promotion
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+1cc to Mr.Rajesh Ramanathan, Advocate, S.R.No.76046

+1cc to Mr.B.Sudhir Kumar, Advocate, S.R.No.76346

सत्यमेव जयते

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GSP(23/11/2018)

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