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

\+ W.P.(C) 9453/2015

CENTURY 21 REAL ESTATE LLC ..... Petitioner

Through: Ms Tanya Varma, Mr Karan Lahiri and Ms Pritika Kohli, Advocates.

versus

UNION OF INDIA & ORS ..... Respondents

Through: Mr Vikram Jetly, CGSC with Ms P.S. Kaur, GP for R-1 & 2.
Mr Neeraj Grover, Mr M. Makra, Mr Abhishek and Mr Anmol, Advocates for R-3.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% 12.09.2018

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

> "I. Issue an order or direction in the nature of MANDAMUS or any other appropriate writ commanding Respondent No. 2 to hear and adjudicate the present opposition filed by the Petitioner under the Trade Marks Act within a time frame;
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> II. Issue an order or direction in the nature of MANDAMUS or any other appropriate writ directing the Respondent No. 2 to henceforth, ensure strict adherence to the procedure and timelines prescribed by the Trademarks Act, 1999 and the Rules framed thereunder for the registration and prosecution of Trademarks and disposal of trademark applications;"

2. There is some controversy whether the petitioner's opposition to the trademark in question has matured for a hearing. The learned counsel

appearing for the respondent states that the petitioner had not filed its evidence (which is disputed by the petitioner) and, therefore, the petitioner's opposition has not been considered as mature for hearing.

3. The learned counsel appearing for the petitioner has also drawn the attention of this Court to a Circular dated 03.11.2009 (Circular No. 22 of 2009), which is set out below:-

> **"CIRCULAR NO. 22 of 2009**
>
> **Sub: Fixing of hearing of trade mark opposition cases**
>
> It has been decided that Registrar of Trade Marks (CGPDTM) will allot opposition matters to individual Registrar of each Registry based strictly on the chronological order of trade marks applications against which the opposition has been filed. The present practice of allotting files at random is hereby dispensed with.
>
> Technical Heads shall prepare a list of pending oppositions to be heard strictly in order of their seniority and shall submit to the Registrar of Trade Marks on the 20th of each month for the hearing of the succeeding month. He/she shall certify in each proposal to the effect that the list has been drawn strictly on seniority basis. On receipt of the marked list, the Technical Heads shall allot the files to individual Registrars who in turn will issue Notice of the date of hearing in accordance with law and hear the matter and dispose of the cases."

4. As is apparent from the above, the hearing regarding the oppositions to the trademark applications are required to be taken up in a chronological order of the trademark applications against which the opposition has been filed. Paragraph 2 of the aforesaid Circular also directs the Technical Heads to prepare the list indicating the oppositions to be heard strictly in accordance with seniority and submit the same to the Registry of

Trademarks on 20th of each month for a hearing to be held in the succeeding months.

5. In view of the aforesaid Circular, respondent no.2 is directed to take up the petitioner's opposition to the trademark in question strictly in terms of Circular dated 03.11.2009. If the trademark applications for the year 2004 have been taken up, the petitioner's opposition (which this Court is informed is against the trademark application filed in the year 2004) would also be taken up in its turn based on the date of filing.

6. The petitioner has also sought directions directing the Registrar Trademark to ensure strict adherence to the timelines as prescribed by the Trademarks Act, 1999. Although, timelines have been provided under the Trademark Act, 1999, it is not possible to issue a mandamus as sought for in this regard. This is so because this Court is not aware as to the extent of workload and the resources available with respondent no.2 to deal with the same.

7. The petition is disposed of in the aforesaid terms.

8. It is clarified that this Court has not expressed any opinion in the merits of the disputes or whether the petitioner has filed its evidence in support of the opposition. Needless to state that all contentions of the parties would be heard and decide in accordance with law.

VIBHU BAKHRU, J

SEPTEMBER 12, 2018
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