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

+ **W.P.(C) 10382/2017 and CM No. 42397/2017**

MOBILE TELESYSTEMS PJSC Petitioner
Through: Mr Aasish Somasi, Mr Shantanu
Sahay and Mr Ravin Galgotia,
Advocates.

versus

UNION OF INDIA AND ORS. Respondents
Through: Mr Anurag Ahluwalia, CGSC for R-1
& 2/UOI.
Ms Nishika Arora, Advocate for R-3,
4 & 7.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **08.02.2018**

1. At the outset, Mr Ahluwalia, the learned counsel appearing for respondent nos. 1 and 2 submits that the Intellectual Property Appellate Board (hereafter 'IPAB') is now functional and there is no impediment in IPAB taking up and considering the petitioner's miscellaneous petition filed on 14.02.2017.

2. The petitioner is, essentially, aggrieved by an order dated 08.10.2016 (which is also confirmed on 13.10.2016), whereby the petitioner's application for cancellation of the Trademark registered in favour of respondent no. 7 was considered as abandoned. The petitioner had filed a miscellaneous petition challenging the said orders (which are also impugned in the present petition) before the IPAB. However, the same could not be considered as the IPAB was not functional. This had led the petitioner to

file the present petition.

3. Since the IPAB is fully functional and the petitioner has an equally efficacious remedy of pursuing its miscellaneous petition before the IPAB, it would be apposite to relegate the petitioner to the said remedy.

4. In view of the above, the petition is disposed of by requesting the IPAB to consider the petitioner's miscellaneous petition as expeditiously as possible and preferably within a period of six weeks from today.

5. Order *dasti*.

VIBHU BAKHRU, J

FEBRUARY 08, 2018
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