

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 3330 OF 2018
WITH
NOTICE OF MOTION NO. 511 OF 2018
IN
WRIT PETITION NO. 3330 OF 2018

M/s. Bellywear

.. Petitioner

v/s.

Registrar of Trade Marks & Anr.

.. Respondents

Mr. Hasmit Trivedi a/w Ms. Dipali Sheth, Ms. Priya Pandey i/b Eternity
Legal for the petitioner

Mr. R.S. Apte, Senior Counsel a/w Mr. Girish Paryani for the
respondents

**CORAM : A.S. OKA &
M.S. SANKLECHA, J.J.**

DATED : 2nd APRIL, 2019

P.C.

1. Heard the learned Counsel for the petitioner. The learned Counsel appearing for the petitioner does not dispute that a remedy of statutory appeal under Section 91 of the Trade Mark Act, 1999 is available to the petitioner. However, he relies upon the decision of this Court in the case of *Cipla Ltd. Vs. Registrar of Trade Marks & Anr.*¹ We have perused the said judgment. In the facts of the case,

1. 2014 (2) Mh.L.J. 315

this Court held that though the remedy of appeal was available, it was necessary to exercise extraordinary jurisdiction under Article 226 of the Constitution of India.

2. The learned Counsel appearing for the petitioner submits that there are cases where the appeals have remained pending for a period of 4 years before the Appellate Authority and, therefore, the remedy is not efficacious. We do not agree. Due to huge filing and pendency in this Court, writ petitions are pending even for 15 years and more.

3. Considering the availability of an efficacious remedy under the statute, we decline to entertain this Writ Petition under Article 226 of the Constitution of India.

4. Petition is accordingly disposed of. The remedy of the petitioner is kept open.

5. In view of disposal of the petition, the Notice of Motion does not survive and the same is also disposed of.

(M.S. SANKLECHA, J.)

(A. S. OKA, J.)