



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY
W.A.NO.188 OF 2022

K.A.Velayudham (deceased)

1. K.V.Sukumar

2. M/s.Ambika Foods

Rep.by its Partner K.V.Sukumar
38/33, K.N.S. Estate, Karpagamabal Nagar
Mylapore, Chennai 600 004.

.. Appellants/
Petitioners

Vs.

1. The Registrar of Trademarks
Trademarks Registry
Industrial Estate SIDCO RMD
Godown Area, GST Road
Guindy, Chennai-32.

2. The Controller General of
Patents, Designs and Trademarks
Intellectual Property Bhavan
Near Antop Hill Head Post Office
S.M.Road, Antop Hill, Mumbai-37.

3. Ambika Appalam Company
Old No.25, New No.4, Dr. Nair Road
T.Nagar, Chennai-17.

4. K.V.Vijayaraghavan
5. R.N.Jaya
6. K.V.Vyas

.. Respondents



Prayer:

Appeal under Clause 15 of the Letters Patent against the order dated 29.11.2021 passed in W.P.No.12625 of 2019.

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Prayer in W.P.No.12625 of 2019:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus Calling for the records on the file of the 1st respondent pertaining to proceedings taken towards allowing Form TM-24 filed by the 3rd respondent in trademark application no. 948965 in class 30 along with certificate dated 04.03.2019 issued in pursuance thereof and quash the same.

For Appellants : Mr.R.S.Rajesh

JUDGMENT

(Judgment was delivered by
the Hon'ble Acting Chief Justice)

By this writ appeal, a challenge was made to the order dated 29.11.2021, by which, the writ petition preferred by the appellants was disposed of, by remanding the matter to the first respondent, as requested by learned counsel for the writ petitioners-appellants, with a direction to provide an opportunity of hearing to the writ petitioners.

2. Learned counsel for the appellants submits that this appeal has been preferred for a limited prayer of status quo to be maintained by the parties during the pendency of hearing by the first respondent.

3. We have considered the submission made by learned counsel for the appellants and perused the order.

4. The appeal has been filed only for an interim order of status quo to be maintained by the parties during the pendency of hearing of the case by the first respondent. No challenge to the order of the learned Single Judge has been made. We do not find that the said prayer was made before the learned Single Judge and was declined. Rather, a perusal of the order passed by the learned Single Judge shows that the prayer of the writ petitioners was to maintain the impugned certificate issued by the first respondent, till the order is passed by the first respondent, after hearing both the parties. Thus, the limited prayer made now cannot be granted and for ready reference, paragraph 8 of the impugned order is extracted hereunder.



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"8. Considering the limited request made by the petitioner and after perusing the Section 45 of the Trademark's Act, 1999, this Court, without going into the merits of the case and without quashing the impugned certificate passed by the first respondent, is inclined to remand the matter back to the first respondent. The first respondent shall take a decision after affording sufficient opportunity to both the parties by conducting a personal enquiry and shall take a decision within a period of twelve weeks from the date of receipt of the order."

5. The above quoted paragraph would show that the impugned order has been passed by the learned Single Judge, as prayed by the writ petitioners.

6. In the light of the aforesaid, we do not find a case for passing of an order of the nature prayed for. Accordingly, the writ appeal is dismissed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kpl/drm

To:

1. The Registrar of Trademarks,
Trademarks Registry,
Industrial Estate SIDCO RMD,
Godown Area, GST Road,
Guindy, Chennai-32.
2. The Controller General of
Patents, Designs and Trademarks,
Intellectual Property Bhavan,
Near Antop Hill Head Post Office,
S.M.Road, Antop Hill, Mumbai-37.

+1cc to Mr.R.S.Rajesh, Advocate, S.R.No.7971

W.A.No.188 of 2022

SSI (CO)
PM/15/02/2022