

142 SHYAM SUNDER
 VS
 SMT. PUSHPA DEVI AND OTHERS

Present: Mr. Sumeet Mahajan, Sr. Advocate
 with Mr. Saksham Mahajan, Advocate
 for the review applicant-Appellant.

 Mr. Amit Jain, Sr. Advocate
 with Mr. Varun Parkash, Advocate
 and Mr. Bishan Dass Rana, Advocate
 for the respondents.

CM-2134-CI-2022

Allowed as prayed for

Annexure RA-1 and RA-2 are taken on record.

RA-RF-17-2022

This appeal was decided by a detailed judgment passed on 20.04.2022. The application for review of the judgment has been filed on the following three grounds:-

- i. At page 3 of the judgment, the Court has taken a notice of the invoices from 01.06.2009 to 01.03.2018, whereas, Sh. Lachman Dass died in the year 2007.
- ii. This Court has misread the statement of defendant (review applicant) reproduced in the judgment.
- iii. The trademark registration certificate was never produced on the file, therefore, the Court has wrongly held that it was issued individually in the name of Sh. Lachman Dass.

From the pedigree table drawn on page 1 of the judgment dated 20.04.2022, it is evident that late Sh. Lachman Dass married twice during

his lifetime. The name of his first wife was late Smt. Bhagwanti and the appellant is born from their cohabitation. After the death of Smt. Bhagwanti, late Sh. Lachman Dass married Smt. Pushpa Devi. The respondents are the children of Smt. Pushpa Devi and late Sh. Lachman Dass.

It is the case of the appellant that late Sh. Lachman Dass, at the first stage, included Sh. Shyam Sunder as partner and thereafter, retired from the partnership in the year 1988. After separating from the partnership, he floated another firm namely M/s Lachman Dass and Company. The invoices referred to at page 3 have been issued by the firm M/s Lachman Dass and Company which is, admittedly, being run by Smt. Pushpa Devi and her children. It is the admitted case of Sh. Shyam Sunder (the appellant) that after separating from the partnership in the year 1988, late Sh. Lachman Dass continued to market mustard oil. After the death of late Sh. Lachman Dass, Smt. Pushpa Devi and her children have been running the same firm and continue to market mustard oil. In fact, Sh. Shyam Sunder has admitted that Smt. Pushpa Devi is carrying on the business of marketing mustard oil in Gobindgarh Bazar, Hisar, Haryana, under the name of Shehnai brand.

With these clarifications, the first objection is clarified.

The second ground on which the review has been sought is with regard to misreading of the deposition of Sh. Shyam Sunder which has been extracted at page 3 and 4 of the judgment. On re-reading of the same, this Court does not find any misreading. This Court has drawn an inference from the evidence led itself.

The last objection is with regard to the non-production of the registration certificate. It may be noted here that this Court has only

concluded that the registration certificate was issued in the individual name of late Sh. Lachman Dass and not in the name of the firm M/s Lachman Dass Puran Chand. The document produced in evidence is extracted as under:-

*“Trade Mark Application Number : 264666 Office : DELHI
TradeMark NO: 264666 Class : 29
Proprietor Details : Name : LACHAMAN DASS
Category : Single Firm
Trading As : Trade Description : MANUFACTURERS.
Proprietor Address: BAZAR GOBIND GARH , HISSAR , HARYANA
STATE Address For Service: LACHAMAN DASS, BAZAR GOBIND
GARH, HISSAR, HARYANA STATE
Nation : India Priority Country: India
State : NOT SPECIFIED District : STATE NOT SPECIFIED
Priority Details:-
Application Date : 27/05/1970
Renewal Date : 27/05/2015 Registration Valid Upto: 27/05/2025
Journal No : 551 - 0 Status: Registered
Issued On :
Trade Mark Type : DEVICE /
Word Mark : SHEHNAI
Class Goods Description
29 EDIBLE OILS.*

HISTORY DATA :

*LACHAMAN DASS AND BHOJA RAM , TRADING AS LACHMAN
DASS PURAN DASS , BAZAR GOBIND GARH , HISSAR ,
HARYANA
STATE ; MANUFACTURERS,
EDIBLE OILS.
REGISTRATION RENEWED FOR A PERIOD OF 7 YEARS FROM
27TH MAY, 1977.
REGISTRATION RENEWED FOR A PERIOD OF 7 YEARS FROM
27TH MAY, 1984.
REGISTRATION RENEWED FOR A PERIOD OF 7 YEARS FROM
27TH MAY, 1991.
REGISTRATION RENEWED FOR A PERIOD OF 7 YEARS FROM
27TH MAY, 1998. ADVERTISED IN JOURNAL NO 1171
PURSUANT TO A REQUEST ON FORM TM - 34 DATED 8TH
FEBRUARY, 1995, AND ORDER THERE ON DATED 20TH
AUGUST , 2001. REGISTERED PROPRIETOR'S BUSINESS
ADDRESS IS ALTERED TO : " 43 - NAI ANAJ MANDI , HISSAR -
125001 , HARYANA ."
REGISTRATION RENEWED FOR A PERIOD OF 10 YEARS FROM
27TH MAY , 2005 ADVERTISED IN JOURNAL NO.1330*

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*REGISTRATION RENEWED FOR A PERIOD OF 10 YEARS FROM
27/05/2015 ADVERTISED IN JOURNAL NO.1713”*

Moreover, the review applicant admits that the trademark was registered in the name of late Sh. Lachman Dass, as an individual and not in the name of the firm.

With these observations, no ground to review is made out.

Dismissed.

July 11, 2022

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(ANIL KSHETARPAL)
JUDGE