

D/L. 18.
March 22, 2023,
MNS

WPA No. 13053 of 2013

Shiv Shakti Agro (India) Ltd.
Vs.
Union of India and others

Mr. Paritosh Sinha,
Mr. Amitava Mitra,
Mr. Sayan Roy Chowdhury,
Ms. Sreemoyee Chatterjee,
Mr. Manosil Mukherjee,
Mr. Subhadip Banerjee

.... for the petitioner

Mr. Sunil Kr. Singhania,
Ms. Twinkle Kaur

.... for the respondent nos.1 to 4.

Learned counsel appearing for the respondent nos. 1 to 4, in his usual fairness, submits, on instruction, that although there were other objections filed by objectors different from respondent no. 5 herein, apparently, as it transpires from the records, no evidences were filed by the other objectors.

Inasmuch as the respondent no. 5 is concerned, who has been contesting the present writ petition, it is contended that the said respondent also did not file any evidence. However, dates of hearing were being fixed.

Learned counsel for the petitioner submits that the primary grievance of the petitioner was that the petitioner got only a copy of the opposition filed by the respondent no. 5 and thereafter it agreed to participate in the hearing.

However, although several dates were fixed for hearing, none took place in reality. Even without hearing the petitioner, it is alleged, it was recorded by the respondent authorities that the Trade Mark pertaining to Trade Mark Application No. 646152 of the petitioner was abandoned.

The respondent no. 5 is not represented today when the matter is called on for hearing.

It is doubtful as to whether the respondent no. 5 would be willing to pursue his objection at such a belated stage, since the writ petition itself was filed in the year 2013.

Be that as it may, as nothing transpires from the records to show that the petitioner was ultimately heard before it being recorded that the Trade Mark pursuant to Trade Mark Application No. 646152 was abandoned, another opportunity ought to be given to the petitioner to be heard by the respondent authorities.

Accordingly, WPA No. 13053 of 2013 is disposed of by setting aside the impugned order of abandonment of the petitioner's trade mark. The respondent nos. 3 and 4 are hereby directed to hold a hearing afresh, upon issuing fresh notice to the petitioner and the objector, that is, the respondent no. 5. Upon such notice being issued, the petitioner as well as the respondent no. 5 shall be entitled to file their evidences in accordance with law, if they so choose. Thereafter, the respondent nos. 3 and 4 shall

decide the matter afresh upon hearing being given in accordance with law.

It is expected that the entire exercise shall be completed as expeditiously as possible by the respondent nos. 3 and 4.

Consequently, the respondent nos. 2 to 4 are directed to amend and rectify the error in the status page Application No. 646152 on the website of the Trade Register from “abandoned” to “opposed” within four weeks from date.

However, it is made clear that such rectification in the status page shall be subject to the final decision arrived at by the respondent nos. 3 and 4 upon giving an opportunity of hearing to all concerned.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)