

S/L 6
19.10.2023
Court No.26
ss/SD

WPA 35023 of 2013

Tarak Chandra Roy
Vs.
Union of India & Ors.

Mr. Sayantan Basu
Mr. Tanmoy Roy

...for the Petitioner.

Mr. Sunil Kr. Singhanian

...for the Respondent Nos.1-3.

Mr. Zeeshan Ahmed

...for the Respondent No.5.

The instant writ petition arises out of an order dated August 28, 2013 being No.182 of 2013 passed by the Intellectual Property Appellate Board, Circuit Bench, Kolkata dismissing the application for rectification of the registration of the Trademark of the Respondent No.5 being Registered Trademark No. 908627 under class 34 filed by the petitioner.

The petitioner being aggrieved by the impugned order dated August 28, 2013 has preferred the instant writ petition praying for a direction upon the respondent nos.2 and 3 to cancel the impugned registration and rectify the Register of trademark.

During pendency of the adjudication of the writ petition, the petitioner and the respondent no.5 have settled all their disputes in respect of their various trademarks including the impugned trademark of the respondent no.5 by executing a terms of settlement executed on March 30, 2023 in which the respondent no.5, *inter alia*, has agreed not to oppose the prayers of the writ petition.

The rectification proceeding arose out of the disputes relating to the registration of the impugned trademark between the petitioner and the respondent no.5 inter se between the private parties. The respondent no.4 is the forum which passed the impugned order. The respondent nos.2 and 3 are the authorities who granted the registration of the impugned trademark. The respondent nos.2 to 4 are under the Ministries of the respondent no.1. The respondent no.4 has been abolished by the Tribunal Reforms Act, 2021.

The respondent no.5 having agreed not to oppose the prayers in the writ petition and the respondent nos.1 to 4 having no part in the said dispute between the private parties herein the said respondent nos.1 to 4 cannot oppose the writ petition being allowed in terms of the prayers (b) and (h) of the writ petition as prayed for by the petitioner. The respondent nos.2 and 3 are only necessary parties to the extent to comply with the directions passed by this Hon'ble Court in terms of the prayers of the writ petition.

In view of the aforesaid settlement by and between the private parties herein, the instant writ petition is allowed in terms of prayers (b) and (h) of the writ petition directing the respondent nos.2 and 3 to forthwith cancel and/or expunge and/or remove the trademark under no. 908627 in class 34 registered in the name of the respondent no.5 from the register of trademarks.

The original terms of settlement dated March 30, 2023 so handed over by the petitioner be kept with the record.

With these observations, WPA 35023 of 2013 is disposed of.

All parties are to act on the server copy of this order duly downloaded from the official website of this Court.

(Shekhar B. Saraf, J.)