

K.S. Jadhav

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMMERCIAL MISCELLANEOUS PETITION NO.1243 OF 2022

Maxell Limited

...Petitioner

Versus

1. Susheel Kumar Pandey
2. Senior Examiner of Trade Marks & Anr.

...Defendants

Ms. Janhvi Chadha a/w Ms. Preeta Panthaki i/b Krishna & Saurashtri
Associates LLP, Advocates for Petitioner.

Mr. Yashodeep Deshmukh a/w Ms. Vaidehi Pradeep, Advocate for
Respondent Nos.1 & 2.

CORAM : R.I. CHAGLA, J.

DATE : 2ND AUGUST, 2023.

ORDER :

1. By this Commercial Miscellaneous Petition, the Petitioner is seeking setting aside of the impugned order dated 27th November, 2021 passed by the Respondent No.1 in Application No.IRDI-4802640 of the Petitioner and the Petitioner's mark under the said Application in three Classes namely Classes 7, 17 and 19 be allowed.

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2. The learned Counsel for the Petitioner has submitted that the impugned order has not considered the submissions of the Petitioner in the Reply to the Examination Report. The cited marks have also been dealt with in the Reply to the Examination Report which has been overlooked in the impugned order. Accordingly, she has submitted that the impugned order be set aside.

3. The learned Counsel appearing for the Respondent states that the Petitioner's mark under said Application falls within three Classes viz. 7, 17 and 19. Each of these Classes should be dealt with in the Reply to the Examination Report. Further, he has on instructions stated that the matter may be remanded back for fresh consideration and passing of order.

4. In view thereof, and considering that the Respondent is agreeable for the matter to be set aside and remanded back for fresh consideration of the said Application No. IRDI-4802640 in the three Classes viz. 7, 17 and 19, the following order is passed :

(i) The impugned order dated 27th November, 2021 is set aside.

(ii) The matter is remanded back to the Respondent-Senior Examiner of Trademarks for fresh hearing of the

Petitioner and consideration of submissions of the Petitioner separately made for the Classes viz. 7, 17 and 19 and upon consideration of the submissions of the Petitioner and material produced, reasoned order shall be passed. This exercise shall be carried out within a period of six weeks from the date of this order.

(iii) The Commercial Miscellaneous Petition is accordingly disposed of.

(iv) There shall be no orders as to costs.

[R.I. CHAGLA, J.]