

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL MISCELLANEOUS PETITION NO. 1305 OF 2022**

Dockweiler AG	...	Petitioner
vs.		
The Registrar of Trade Marks	...	Respondent

Mr. Darius Dalal a/w. Ms. Priya Thakkar, Ms. Rituja Tawade, i/by. Jehangir Gulabbhai & Bilimoria & Daruwalla for petitioner.

**CORAM : MANISH PITALE, J
DATE : 23rd JANUARY, 2023**

P.C. :

. Heard Mr. Dalal, learned counsel appearing for the petitioner.

2. By this petition, the petitioner has challenged the order dated 9th July, 2021, passed by the sole respondent i.e. the Registrar of Trade Marks, whereby an application, moved on behalf of the petitioner, for grant of registration of trade mark has been refused, on the ground that there exists likelihood of confusion in the minds of the public. Reference was made to Section 11(1) of the Trade Marks Act, 1999.

3. This Court issued notice to the sole respondent by order dated 14th November, 2022, returnable on 16th December, 2022. The office note shows that the sole respondent is served. There is no appearance on behalf of the respondent.

4. This Court has noticed that in such matters, despite service, the sole respondent i.e. the Registrar of Trade Marks, has not appeared and assisted

this Court. It is expected that the Registrar of Trade Marks responds to the notices of this Court, so that the prayers made in the petition can be considered on merits.

5. A perusal of the impugned order in the present case, shows that other than virtually reproducing the contents of the relevant statutory provision, there is no reasoning recorded by the respondent, while holding against the petitioner.

6. In this context, the learned counsel for the petitioner invited attention of this Court to the response placed on record, before the respondent in the context of the examination report. The said document dated 7th November, 2020, shows that the petitioner placed detailed material on record, including registrations granted to it, in jurisdictions abroad. The petitioner also relied upon precedents in support of its case and also referred to prior adoption and use of the mark internationally and in India, at least for past 60 years. None of this material have been adverted to, by the Registrar of Trade Marks.

7. It is unfortunate that the respondent has been passing such one-line orders, with no discussion of material placed on record by the applicants. As a consequence, the docket of this Court is flooded with similar petitions.

8. In the absence of a reasoned order, it is not possible to appreciate the material sought to be relied upon by the learned counsel for the petitioner, for the first time before this Court.

9. In these circumstances, this Court is of the opinion that the petition needs to be partly allowed and the matter needs to be placed before the sole

respondent for re-consideration and for passing appropriate reasoned order in the matter.

10. In view of the above, the petition is partly allowed. The impugned order is quashed and set aside and the matter is remanded to the sole respondent i.e. the Registrar of Trade Marks.

11. The petitioner shall appear before the Registrar of Trade Marks on 1st February, 2023. The petitioner may file additional documents before the Registrar of Trade Marks, if so advised, within two weeks from 1st February, 2023.

12. The necessity of issuing fresh notice on the part of the respondent i.e. the Registrar of Trade Marks, is dispensed with, in the light of the direction given by this Court to the petitioner to appear before the said respondent on 1st February, 2023.

13. The Registrar of Trade Marks is directed to take up the application of the petitioner, upon remand, at the earliest and to dispose of the same expeditiously. In any case, the sole respondent i.e. the Registrar of Trade Marks shall dispose of the application of the petitioner within six weeks from 1st February, 2023.

(MANISH PITALE, J)