

K.S. Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

MISCELLANEOUS PETITION NO.5 OF 2022

WABCO Europe BVBA

...Petitioner

Versus

The Registrar of Trademarks & Anr.,

...Respondents

Mr. Amit Jamsandekar a/w Ms. Archita Gharat i/b Sunil N. Nair,
Advocate for Petitioner.

Mr. Siddhant Rao Malankar a/w A.M. Sethna and Ashutosh Mishra,
Advocate for Respondents.

CORAM : R.I. CHAGLA, J.

DATE : 26TH JUNE, 2023.

ORDER :

1. By this Miscellaneous Petition, the Petitioner is seeking setting aside of the impugned order dated 29th April, 2021 passed by Respondent No.2.

2. Mr. Jamsandekar, learned Counsel appearing for the Petitioner has taken this Court through the impugned order. He has submitted that other than referring to the proceedings namely Section 9(1)(8) of the Trade Marks Act, 1999 and Section 9(1)(b) of

the Trade Marks Act, 1999, there is a failure to give any reason for finding that the applying mark is not registrable and cannot be accepted. He has submitted that there was a detailed reply, wherein submissions were made and authorities were relied upon which have been totally overlooked and / or not considered by the Senior Examination of Trade Marks in passing the impugned order.

3. The learned Counsel appearing for the Respondents has submitted to the orders of this Court. He has instructions to state that the matter may be remanded back.

4. In view thereof, the impugned order dated 29th April, 2021 being bereft of reasons other than recording provisions of Trade Marks Act and making on reference to the Examination Report, is quashed and set aside.

5. The matter is remanded back to the Senior Examiner of Trade Marks for fresh hearing and passing of reasoned order after considering the submissions and / or material relied upon by the Petitioner which exercise shall be carried out within a period of twelve weeks from the date of this order.

6. The Miscellaneous Petition is accordingly disposed of.

7. There shall be no orders as to costs.

[R.I. CHAGLA, J.]