



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

(T)OP(TM)/121, 124, 127/2023

(ORA/9, 12, 15/2014/TM/CH)

M/s.Pioneer Bakeries Pvt. Ltd.,  
Poondurai Road,  
Moolapalayam P.O.  
Erode 638 002.

... Petitioner in all OP'S

-VS-

1.Mr.V.M.Joseph  
179 C, NimmiNivas  
5th Vinayakar Koil Street  
Moolapalayam Post  
Erode 638 002.

2.The Registrar of Trademarks,  
Office of the Registrar of Trademarks,  
Guindy, Chennai - 600 032.

... Respondents in all OP's

**COMMON PRAYER:** Transfer Original Petition (Trademarks) filed under Sections 47, 57, 125 of the Trademarks Act, 1999, pleaded to cancel the registered Trademark Nos.791669, 759880 and 791665, respectively, in class 30, allow this application, award costs of this proceedings be awarded to the petitioners.



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For Petitioner : Mr.Harishankar Mani  
in all OP's

For Respondent 1 : Mr.Arun C.Mohan  
in all OP's

For Respondent 2 : Mr.K.Subbu Ranga Bharathi, CGSC  
in all OP's

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**COMMON ORDER**

At the hearing on 04.09.2023, learned counsel for the petitioner placed on record the Dispute Settlement Agreement dated 18.02.2016 (the MOU) by and between M/s.Pioneer Bakeries Private Limited and Mr.V.M.Joseph. At today's hearing, upon obtaining instructions, learned counsel for the petitioner and the first respondent in these matters submit that the rectification petitions may be disposed of in terms of the above mentioned agreement. In the MOU, the parties agreed, *inter alia*, as under:



"1. Whereas VMJ has realised that he ought not to have obtained all the registrations in his personal name, whilst he was still in the employment of PBPL and subsequent to his leaving PBPL, and that he has no right to lay claim to the proprietorship of the mark 'MILKA', as 'MILKA' is a unique and coined trade mark and therefore PBPL is the only proprietor of the trademark 'MILKA' and all the artistic work registered in respect of the copyright registrations and VMJ has agreed to execute all necessary applications, affidavits etc. to record the same before various courts and tribunals to end all the litigations with respect to the trade mark 'MILKA'.

2. VMJ undertakes not to license the trade mark 'MILKA' or any other trade mark identical to or similar to the trade mark 'MILKA' to any third party and further agrees to revoke all licenses if any granted to third parties prior to the date of this agreement.

3. In the event of any pending applications filed in respect of Trade Marks or Copyrights by VMJ in respect of the mark 'MILKA', VMJ agrees



*to execute all documents that are necessary for transfer of the applications to PBPL as required under law.*

*4.....*

*5. VMJ agrees to cooperate with PBPL, in the event, there is any requirement in future with regard to filing further affidavits, applications and other documents relating to the disputes arising out of the aforementioned trademarks/copyrights before all Court/Tribunal, Registrar of Trademarks/ Registrar of Copyrights at any point of time as and when requested by PBPL.*

*6. VMJ agrees to withdraw all disputes initiated by him before all courts and all proceedings initiated by him against PBPL with regard to the trade mark 'MILKA'.*

*7. Binding Settlement. The parties acknowledge that this MOU, standing alone, is a binding and enforceable contract. The parties agree to complete all the formalities for settling the disputes before various fora before 30.04.2016."*



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2. On account of the above agreement, adjudication on merits is not necessary. In effect, the first respondent has agreed not to use the mark MILKA and to recognize the petitioner as the proprietor of the said mark. The first respondent has further agreed to file all necessary affidavits, applications and other documents to give effect to the settlement.

3. Learned counsel for the first respondent submits that the registration of Trademark Nos.791669 and 791665 were not renewed after 17.02.2018.

4. By taking note of these developments, (T)OP(TM)/121, 124, 127/2023 are disposed of by issuing the following directions:

(i) the Registrar of Trade Marks is directed to cancel the certificates of registration and remove the entries relating to



Trademark Nos.791669, 759880 and 791665 from the Register of  
Trade Marks.

(ii) the above exercise shall be completed within a period of  
*four weeks* from the date of receipt of a copy of this order.

(iii) There shall be no order as to costs.

**11.09.2023**  
**(1/2)**

rna/vca  
Index : Yes / No  
Internet : Yes / No



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**SENTHILKUMAR RAMAMOORTHY,J**

rna/vca

**(T)OP(TM)/121, 124, 127/2023**  
**(ORA/9, 12, 15/2014/TM/CH)**

**11.09.2023**