



WEB COPY



(T)CMA(TM)/24/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

(T)CMA(TM)/24/2023
(OA/37/2012/TM/CHN)

Bharat Vastralaya, a registered partnership firm
of 1. Gitesh Parekh, 2. Gitesh Parekh (HUF),
3. Smt.Jayshree Gitesh Parekh, 4. Ms.Karishma Parekh,
5. Ms.Pooja Parekh and 6. Aakash Parekh,
presently having its registered Office at
102, 1st Floor, Dr.Atmaram Merchant Road,
Bhuleshwar Mumbai - 400 002.

... Appellant

-vs-

1.Karishma Silks & Sarees,
a partnership firm of Jayanthi
Thakurdas, Amrita Suresh Narwany
and Priya Vashdev Hirdaramani,
having its address at No.45, M.G.Road,
Bangalore - 560 001.

2.The Assistant Registrar of Trade Marks,
The Trade Marks Registry,
Intellectual Property Building,
GST Road, Guindy, Chennai - 600 032.

... Respondents



(T)CMA(TM)/24/2023

PRAYER: Transfer Civil Miscellaneous Appeal (Trade Marks) filed under Section 91 of the Trade Marks Act, 1999, praying to allow the present appeal and set aside the order dated 8th May 2012 passed by the second respondent and consequently allow the appellant's opposition No.MAS 54596 and refuse registration to the first respondent's application under No.572267 in Class 24.

For Appellant : Ms.Priya Anand
for M/s.Arjun T.Bhagat and Co.

For Respondent 1 : Mr.S.Rajesh Ramanathan, S.Diwakar

For Respondent 2 : Mr.M.Karthikeyan, SPC

JUDGMENT

This appeal was filed by the opponent before the Trade Marks Registry challenging the rejection of Opposition No.MAS 54596 in respect of Application No.572267 in Class 24.



(T)CMA(TM)/24/2023

WEB COPY

2. The parties have reached a settlement and recorded the terms thereof in consent terms agreement dated 17.10.2023. Paragraphs 3 to 5 thereof are as under:

"3. The Appellant agrees and consents to the use of KARISHMA by the Respondent No.1 a part of its trading style / business name / trade name for ONE outlet in Bangalore (currently located at 45, M.G.Road, Bangalore - 560 001, Karnataka).

4. The Respondent No.1 agrees and undertakes to file an appropriate request for amendment in their trademark application no.2098831 in class 35 to bring on record the geographical limitation as above, with copy marked to the Appellant within a period of 1 week from the date of recordal of the consent terms before this Hon'ble Court. Once the request for amendment is filed by the Respondent No.1, the Appellant undertakes to withdraw the opposition no.844072 filed by them against application no.2098831 in class 35, with copy marked to the



(T)CMA(TM)/24/2023

Respondent No.1, within a period of 1 week thereafter.

5. The Respondent No1. agrees and undertakes that it shall withdraw its registration under No.572267 in class 24 and undertakes to file appropriate request with the Registrar of Trademarks in this regard within a period of 1 week from the date of recordal of the consent terms before this Hon'ble Court. The Respondent No.1 agrees that it shall, to the extent possible, diligently follow up with the Trade Marks Registry to get the said application withdrawn with the status changed to the same, on the Trade Marks Registry website. The Respondent No.1 confirms that it has not filed any application for registration of the trade mark KARISHMA in respect of any goods covered under class 24."

3. From the above extracts, it is evident that the contesting parties have undertaken reciprocal obligations, which are to be fulfilled after the consent terms are recorded by this Court. I see no impediment to the disposal of the appeal in terms thereof.



(T)CMA(TM)/24/2023

WEB COPY

4. Accordingly, (T)CMA(TM)/24/2023 is disposed of in terms of the consent terms dated 17.10.2023, which shall form an integral part of this judgment. In the circumstances, there will be no order as to costs.

02.11.2023

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes/No



WEB COPY



(T)CMA(TM)/24/2023

SENTHILKUMAR RAMAMOORTHY,J

rna

(T)CMA(TM)/24/2023
(OA/37/2012/TM/CHN)

02.11.2023