



(T)CMA(TM)/62/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2023

CORAM:
THE HONOURABLE MR.JUSTICE SENTHILKUMAR
RAMAMOORTHY

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(OA/1/2017/TM/CH)

M.S.Earthevents (I) Private Limited,
Promenade S2, 2nd Floor, 76/3,
Nandidurga Road, Jayamahall New Extension,
Bangalore - 560 046, Karnataka, India.

...Appellant

-VS-

Assistant Registrar of Trade Marks,
Intellectual Property Office,
Intellectual Property Office Building,
G.S.T.Road, Guindy,
Chennai - 600 032. Tamil Nadu, India.

...Respondent

PRAYER: Transfer Civil Miscellaneous Appeal (Trademarks) filed under Section 91 of the Trade Marks Act, 1999, praying to order for removing the subject Trade Mark and allow the appellant to renew the Trade Mark by filing appropriate forms along with fees.

For Appellant : Mr.Amarjeet Kumar
for M/s.Khurana & Khurana

For Respondent : Mr.Rajesh Vivekananthan,
Deputy Solicitor General



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JUDGMENT

WEB COPY The appellant assails the order removing Trade Mark No.1249884 in Class 41 from the Register of Trade Marks.

2. The principal ground on which the appellant assails the order is that the Registrar of Trade Marks did not issue notice to the registered proprietor of the mark in accordance with Section 25(3) of the Trade Marks Act, 1999 read with Rule 64(1) of the Trade Marks Rules, 2002. Specifically, the appellant asserts that it was incumbent on the Registrar of Trade Marks to issue notice in Form O-3 before removing a mark from the Register of Trade Marks. On account of non-compliance with such essential condition, it is submitted that the impugned order is liable to be set aside. In support of this contention, learned counsel relied upon the judgment of this Court in *D.Baskaran V. Deputy Registrar of Trade Marks and another* (2019 SCC OnLine Mad 31016).

3. Upon obtaining instructions, Mr.Rajesh Vivekananthan, learned Deputy Solicitor General, concurs with the contention of learned counsel for



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the appellant that the appellant was not put on notice by serving Form O-3 on the appellant.

4. In view of the above factual position, the impugned order is unsustainable and is hereby set aside. As a corollary, the appellant is permitted to take necessary steps for the renewal of Trade Mark No.1249884. If an application for renewal is presented, the same shall be dealt with in accordance with the Trade Marks Act, 1999 and the rules framed thereunder.

5. The appeal is disposed of on the above terms.

04.09.2023

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
rjr/hvk



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SENTHILKUMAR RAMAMOORTHY, J.

rjr/hvk

To
Assistant Registrar of Trade Marks,
Intellectual Property Office,
Intellectual Property Office Building,
G.S.T.Road, Guindy,
Chennai - 600 032.
Tamil Nadu, India.

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