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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

CMA(TM)/4/2023

T.V.Nagarajan  
No.57, Plot No.116, Padmavathynagar,  
11th Street, Naalur Village,  
Thiruvallur District,  
Minjur - 601 203.

... Appellant

-vs-

1.The Controller General of Patents,  
Designs and Trade Marks,  
BhouthikSampada Bhavan,  
Antop Hill, S.M.Road,  
Mumbai - 400 037.

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

3.Axil,  
Represented by its Proprietor - Saurabh Chhabra,  
B/382, Shastri Nagar,  
Bhilwara,  
Rajasthan - 311 001.



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4.Axcel,

Represented by its Proprietor - M.E.Madhu,  
Plot No.7, Velan Nagar,  
Alwarthirunagar,  
Valasaravakkam,  
Chennai - 600 087.

... Respondents

**PRAYER:** Civil Miscellaneous Appeal (Trade Marks) filed under Section 91 of the Trade Marks Act, 1999, praying to set aside the order of the Trade Marks Registry made in Application No.4826693 and to register the trade mark "AAXLE" in the name of the Appellant.

For Appellant : Mr.C.Mohanraj

For Respondents : MrK.Subbu Ranga Bharathi, CGSC  
1, 2

For Respondent 3 : Mr.Yashvardhan Singh  
for M/s.KAY & Partners

For Respondent 4 : Mr.Dhandayudhapani

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## JUDGMENT

**WEB COPY** The appellant assails an order dated 26.04.2023 by which Application No.4826693 for registration of the Trade Mark "AAXLE" was refused.

2. The order of refusal, when read with the examination report and search report annexed thereto, reveals that the refusal was under Section 11 of the Trade Marks Act, 1999 (the Trade Marks Act) by citing two marks. The search report mentions the status of the said mark as opposed and objected, respectively. The proprietors of the said marks were arrayed as the third and fourth respondents in this appeal. On instructions, both the third and the fourth respondents stated that they have no objection to the trade mark application being allowed.

3. In these circumstances, Mr.K.Subbu Ranga Bharathi, learned CGSC, submits that the impugned order may be set aside.



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4. The impugned order was issued entirely on the basis of the marks cited in the search report annexed to the examination report. By taking into account the fact that the proprietors of the cited marks have no objection and the fact that no objections were raised under Section 9 of the Trade Marks Act, the impugned order is liable to be set aside.

5. Consequently, the impugned order dated 26.04.2023 is set aside and, in the circumstances, the application shall proceed to advertisement. It is made clear, however, that this order will not be binding on opponents, if any. CMA(TM)/4/2023 is allowed on the above terms without any order as to costs.

**12.10.2023**

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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**SENTHILKUMAR RAMAMOORTHY,J**

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