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W.A.No.1924 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.No.1924 of 2021

Indo-German Tools,
Represented by its Proprietor Mr.A.Nambhi
SF.No.22/2A2, New No.2/551-7,
Durga Nagar, Anumepalli Agraharam,
Zuzuvadi Village,
Hosur-635 126.

... Appellant

Vs.

1.District Industries Centre,
Rep. by its General Manager,
Department of Industries and Commerce,
Krishnagiri.

2.Ministry of Consumer Affairs,
Food and Public Distribution,
Government of India, IT Desk,
Rep. by its Deputy Director,
Shastri Bhavan, New Delhi.

... Respondents

Prayer :- Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order passed by Hon'ble Judge in W.P.No.22204 of 2010 on 14.08.2020.



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For Appellant : Mr.Mohan Balaji for
Mr.M.D.Thirunavukkarasu

For Respondents : Mr.S.John J.Raja Singh,
Additional Government Pleader(for R1)

: Mr.K.Srinivasa Murthy (for R2)

J U D G E M E N T

(Judgement of the Court was delivered by S.M.Subramaniam J.)

The writ order dated 14.08.2020 is sought to be set aside in the present intra court appeal. The writ petitioner is the appellant before us.

2. The writ petition was instituted seeking direction to the Ministry of Consumer Affairs, Food and Public Distribution, Government of India, to permit the appellant to use the name and style of Indo and German in its name and to provide the capital subsidy to the appellant. The learned Single Judge considered the provisions of Emblems and Names (PIU) Act, 1950 and dismissed the writ petition.

3. Mr.Srinivasamurthi, learned counsel for the second respondent, would submit that there is a collaboration between the Government of India and German Technical Agency under the frame work of Indo-



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German Development Cooperation. The German organisations are providing technical support to the small industries in India. When the Government has already used the name for international transactions and supply of technical training, the said name cannot be registered.

4. Further Section 3 and 7 of the Emblems and Names (Prevention of Improper Use) Act, 1950 reads as under:

“3. Prohibition of improper use of certain emblems and names.—Notwithstanding anything contained in any law for the time being in force, no person shall, except in such cases and under such conditions as may be prescribed by the Central Government, use or continue to use, for the purpose of any trade, business, calling or profession, or in the title of any patent, or in any trade mark or design, any name or emblem specified in the Schedule or any colourable imitation thereof without the previous permission of the Central Government or such officer of Government as may be authorised in this behalf by the Central Government.

...

7. Savings.—Nothing in this Act shall exempt any person from any suit or other proceeding which might, apart from this Act be brought against him.”



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5. Clause 7 to the Scheduled to the Emblems and Names (Prevention of Improper Use) Act, 1950 reads as under:

“7. Any name which may suggest or be calculated to suggest—

(i) the patronage of the Government of India or the Government of a State; or

(ii) connection with any local authority or any corporation or body constituted by the Government under any law for the time being in force.”

6. In view of the said clause in the Schedule to the Act, the Government, in its discretion, is empowered to rejected the request of the petitioner and in this case, it was rejected. The Writ Court has considered the counter affidavit filed by the second respondent in this regard, which reads as under:

“4. A counter affidavit has been filed by the second respondent along with a communication received from the Indian Embassy, Berlin. In the counter, it has been stated that the decision of the Department in not allowing the petitioner to use the name of the firm as “Indo German Tools”? under the aforesaid Act was taken in consultation with the Ministry of External Affairs in the Government of India in terms of the



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provisions contained in the said Act. Along with the counter, a message received from the Embassy of India, Berlin, was also annexed, which states as follows:

?“Please refer to your e-message (Dy.No.8345/EW/Pol/09) dated May 25, 2009 regarding Mission?s recommendation for permission to a firm in Karnataka to register themselves as “Indo-German Tools?”.

2. The name is very similar to the name used by another organization called “Indo-German Tool Rooms?” (IGTRs), which are tool production and training centres in India engaged in the production of tools of precision plastic, metal components, etc. The IGTRs are equipped with machinery and imported equipment from Europe and are mainly assisting small scale industries in India by providing quality tools, precision machine facilities and training centres. The equipment is provided by the GTZ (German Technical Agency) under the framework of Indo-German Development Cooperation. The Small Industries Development Organization, which is a part of Ministry of Small Scale Industries, GOI is one of the nodal support agencies.

3. Under the guidelines of the Emblems and Names (Prevention of Improper Use) Act, the



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usage of the term “Indo-German Tools”? by a private firm in Karnataka may wrongly suggest the patronage of the Government Authorities and GTZ to the concerned company. Hence, the mission would not recommend the grant of the name “?Indo-German Tools?” to the concerned company in Karnataka.?”

7. In view of the facts and circumstances, the appellant has not established any further acceptable ground for the purpose of entertaining the Writ Appeal. Accordingly, the writ order stands confirmed and the writ appeal stands dismissed. No costs.

(S.M.S.J.,)

(C.K.J.,)

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Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

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S.M.SUBRAMANIAM, J.

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