



(T)OP(TM) Nos.115 to 117 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2024

CORAM

MR.JUSTICE N.SESHASAYEE

(T)OP(TM) Nos.115 to 117 of 2023

M/s.D.R.Raanka Bros

No.151, N.S.C. Bose Road, 1st Floor

Chennai - 600 079

Represented by its partner

Mr.Bharath Ranka

... Petitioner in all the OPs

Vs.

1.Mr.Sumti A.Challani

M/s.C.R.Jewellery

No.119, N.S.C. Bose Road, 1st Floor

Sowcarpet, Chennai - 600 079

... 1st Respondent in
O.P. No.115 of 2023

2.M/s.Challani Ranka Jewellery

No.119, N.S.C. Bose Road, 1st Floor

Sowcarpet, Chennai - 600 079

... 1st Respondent in O.P.
Nos.116 & 117 of 2023

3.Deputy Registrar of Trade Marks

Office of the Trade Marks Registry

Chennai - 600 032

... 2nd Respondent in all the OPs

Prayer in (T)OP(TM) Nos.115 to 117 of 2023 : Original Petitions filed under Sections 47, 57 and 125 of the Trade Marks Act, 1999 to call for and examine the records of the Registered Trademark Nos.1920987, 1208075



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and 1208076 in Class 14 registered in favour of the first respondent and to cancel the subject registrations obtained unlawfully as also to direct the Registrar of Trademarks to rectify the said Trademark Nos.1920987, 1208075 and 1208076 in Class 14 in the Register by expunging all the entries relating to Trademark Nos.1920987, 1208075 and 1208076 and for an order of cost against the respondent for the present proceedings.

For Appellant : Mr.Rajesh Ramanathan
for M/s.S.Balachandran, K.Rajasekaran

For Respondent : Mr.C.Kulanthaivel,
Senior Panel Counsel for R2 in all OPs
No Appearance for R1 in all OPs

COMMON ORDER

These three petitions are filed for rectification of the Register under Section 57 of the Trademarks Act, by the petitioner alleging that the rival mark registered by the second respondent on an application filed by the first respondent is deceptively similar in the same category of goods.

2. The first respondent has been served with notice and there is no appearance for it. The second respondent is represented by its standing counsel.



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3. Providing a backdrop to the dispute, the learned counsel for the petitioner submitted that certain Dhirajmalji Ranka and his brother Rekchandji Ranka, formed a partnership in 1949 and commenced a business in jewellery. Both these brothers have since passed away and the next generation continues the said business. So far as the present case is concerned, only facts from 2001 are relevant. The petitioner was doing business under the Trademark '**D.R.**' with a device attached beneath those letters. For the purpose of its business, the petitioner has registered the above said device and it has registered this mark which is being periodically renewed. This apart, the firm had also registered its name '**D.R.Raanka Bros.**' as a word mark.

4. While so, sometime in 2001, some of the partners of the firm '**D.R.Raanka Bros.**' have joined hands with certain Challani and formed a firm under the name and style of "Challani Ranka Jewellery". In the very next year, the firm was dissolved and those of the partners of the petitioner firm ceased to associate themselves with Challani Ranka Jewellery.



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5. Notwithstanding the same, the newly formed partnership firm Challani Ranka Jewellery began to do its business under the name and style of 'C.R.J' with a device attached. Challani Jewellery thereafter, proceeded to register two device marks and one word mark. The first is 'C.R.J.' the device beneath it (which is the subject matter of O.P. No.115 of 2023) and 'C.R.' with a device mark (subject matter in 117/2023). It also proceeded to register a word mark that reads 'Challani Ranka Jewellery' and all these marks were obtained after 2003. Indeed, the first respondent itself had claimed user of this mark only from the year 2003. It has to be noted that when Challani began to do its business under the trademark that it had registered the very firm formed in 2001, had been dissolved.

6. As stated earlier, the first respondent though had filed its counter, when the matter was taken before the Intellectual Property Appellate Board, did not choose to participate in the proceedings after the matter was transferred to this court. As outlined earlier, it did not even choose to participate despite the fact that a notice was served on it.



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7. This court heard the learned counsel for the petitioner as well as the learned standing counsel for the second respondent. This court perused both the trademarks of the petitioner as well as the mark registered by the first respondent in relation to which rectification is sought vide these petitions. Without preempting the Registrar of the Trade Marks as to how he has to take a call, this court does find that there is striking similarity between the marks registered by the petitioner and that of the first respondent. Necessarily, these marks of the first respondent cannot continue in the Register of Trade marks.

8. Accordingly, all the three petitions are allowed. The Registrar of Trademarks is directed to rectify the register, within a period of three weeks from the date of receipt of a copy of this order. No costs.

08.02.2024

Asr
Index: Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No



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N. SESHASAYEE, J.

Asr

To
The Deputy Registrar of Trade Marks
Office of the Trade Marks Registry
Chennai - 600 032

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Dated : 08.02.2024