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(T) CMA (TM) Nos.68 to 70 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2024

CORAM:

THE HON'BLE MR.JUSTICE P.B.BALAJI

(T) CMA (TM) Nos.68, 69 & 70 of 2023

Chennai Runners Association
(Registered under the Tamil Nadu Societies
Registration Act, 1975)
Rep. by its President Shahid Kandrikar,
No.11/2, Subbaraya Avenue,
Chennai -600018, Tamil Nadu, India.

.. Appellant in the above CMAs

..Vs.

1.The Registrar of Trademarks,
The Trademarks Registry,
IP Office Building, G.S.T. Road,
Guindy, Chennai 600 032.

2.The Senior Examiner of Trade Marks,
Trademark Registry, IP Office Building,
G.S.T. Road, Guindy,
Chennai 600 032.

.. Respondents in the above CMAs

COMMON PRAYER: These Appeals came to be numbered by transfer of IPAB Case in OA.Nos.6, 7 & 8 /2018/TM/CHN from the file of the Intellectual Property Appellate Board, Chennai praying to set aside the impugned orders of the respondent made in order having correspondence Nos.5767923, 5761492 & 5796302 in Class 41 dated 24.01.2018, 23.01.2018 & 31.01.2018 and direct the respondent to register the mark.

For Appellant : Mr.K.M.Aasim Shehzad for
M/s.BFS Legal in all CMAs



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For Respondents : Mr.M.Sathyan,
Additional Central Government
Standing Counsel in all CMAs

J U D G M E N T

These Appeals have been preferred by the appellant to set aside the impugned order of the second respondent made in orders having correspondence Nos.5767923, 5761492 & 5796302 in Class 41 dated 24.01.2018, 23.01.2018 & 31.01.2018 and direct the respondents to register the mark.

2. I have heard Mr.K.M.Aasim Shehzad, learned counsel for the Appellant and M.Sathyan, learned Additional Central Government Standing Counsel for the respondents in all the three Appeals.

3. The learned counsel for the Appellant would submit that the Appellant had applied the composite Trademarks viz., Chennai Runners, Chennai Marathon, Chennai Half Marathon. However, in and by the impugned orders dated 24.01.2018, 23.01.2018 & 31.01.2018, the second respondent has refused Registration on the ground that the Trademarks are objectionable under Sections 9 and 11 of the Trade Marks Act, 1999. The appellant sought for grounds for refusal, in respect of which responses were



issued by the Registrar of Trademarks, in and by the communication dated 17.08.2018, where they have merely extracted the grounds for refusal of Registration, as Sections 9(1)(b) and 11(1)(b) of the Trademarks Act, 1999.

I find that the impugned orders of rejection are clearly unsustainable as being non speaking orders. There is absolutely no discussion whatsoever with regard to the several documents produced by the appellant showing user rights and the growth of the events which has been conducted by the appellant. The second respondent has therefore non suited the appellant without even discussing the primary ingredients of Sections 9 & 11 of the Act.

4. Therefore, these matters are being remitted to the respondents for fresh consideration, after affording a fair opportunity to the appellant. To avoid any embarrassment, the appellant's Applications shall be considered by a different Controller/Senior Examiner. The hearing shall be expedited and the Applications shall be disposed of within a period of two (2) months from the date of receipt of a copy of the judgment. No costs.

23.07.2024

Index : Yes/No
Speaking/Non-speaking order
rkp

P.B.BALAJI,J.

rkp



To

1. The Registrar of Trademarks,
The Trademarks Registry,
IP Office Building, G.S.T. Road,
Guindy, Chennai 600 032.

2. The Senior Examiner of Trade Marks,
Trademark Registry, IP Office Building,
G.S.T. Road, Guindy,
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