



(T)OP(TM) No.394 of 2023
(ORA/108/2020/TM/CHN)

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2024

CORAM

MR.JUSTICE N.SESHASAYEE

(T)OP(TM) No.394 of 2023
(ORA/108/2020/TM/CHN)

M/s.Star Plastics
Mullurkara 680583
Thrissur District
Kerala

... Petitioner

Vs.

1.Chandrasekhar

2.The Registrar of Trade Marks
Trade Marks Registry
Chennai

... Respondents

Prayer: Original Petition filed under Sections 57 and 47 of the Trade Marks Act, 1999 to call for and examine the records of the said registered Trade Mark No.4101778 in Class 17 registered in favour of the Registrant and to cancel the said Registration and to direct the Registrar of Trade Marks to rectify the said trade mark No.4101778 in Class in the Register by expunging all the entries relating to the said Trade Mark No.4101778.



WEB COPY



(T)OP(TM) No.394 of 2023
(ORA/108/2020/TM/CHN)

For Petitioner : Mr.G.Jayaraj Israel
for Mr.A.Swaminathan
M/s.L.R.Swami & Co.

For Respondents : No Appearance for R1
Mr.Rajesh Vivekanandhan,
Dy. Solicitor General for R2

ORDER

This petition is filed for rectification of the Trade Marks Register where the petitioner seeks cancellation of the mark of the first respondent.

2. The petitioner has registered two marks with certain variations under Class 17. They are registered respectively on 15.03.2008 and 16.03.2015. Indeed, the petitioner is engaged in the business of manufacture and marketing of PVC Pipes, Hose pipes, Pressure Pipes and adhesives and the petitioner's trade marks are as below:





(T)OP(TM) No.394 of 2023
(ORA/108/2020/TM/CHN)

3. The first respondent has registered its mark 'STARPRO' under Class 17. It was registered on 16.08.2019 and according to the user details in the Application form, the first respondent only proposes to use the said mark.

4. According to the petitioner, it has established considerable reputation in its business and its Trade Mark has also established substantial reputation and that the first respondent's mark 'STARPRO' bears substantial similarity to deceive an ordinary consumer of imperfect memory and hence it requires this mark to be cancelled.

5. The first respondent was served, but did not appear.

6. This Court only has the material provided by the petitioner. It is not in dispute that the petitioner has registered its trade mark 'Star' with a device of a star attached with a specific colour scheme under class 17. The issue however, does not relate to the device or the colour scheme. It is about the word 'Star'. The first respondent has registered a word mark 'Starpro', in class 17. The issue is whether '**Starpro**' bears a striking similarity, deceptive enough to mislead a gullible consumer vis-a-vis the petitioner's trademark.



(T)OP(TM) No.394 of 2023
(ORA/108/2020/TM/CHN)

WEB COPY This Court has very little hesitation in holding it in the affirmative. A mere suffixing of 'pro' to the word 'Star' without any inter space between them does not make it a substantially different mark from the stand point of an ordinary consumer. To re-emphasis, the first respondent has registered its mark in the same class as the petitioner which makes things worse for the latter.

7. In conclusion this Court finds every reason to allow the petition and accordingly, this petition is allowed. The second respondent is directed to remove the mark registered by the first respondent proprietor from its Register. No costs.

27.03.2024

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

To
The Registrar of Trade Marks
Trade Mark Registry, Chennai

N. SESHASAYEE, J.

Asr/ds



WEB COPY



(T)OP(TM) No.394 of 2023
(ORA/108/2020/TM/CHN)

(T)OP(TM) No.394 of 2023
(ORA/108/2020/TM/CHN)

Dated : 27.03.2024