



WEB COPY



WP(IPD)/5 to 22/2023

N THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2024

CORAM

MR.JUSTICE N.SESHASAYEE

WP(IPD)/5 to 22/2023

WP(IPD) No.5 of 2023

M/s.Prestige Estates Projects Ltd
19, Prestige Falcon Tower
Brunton Road
Bangalore 560 025
Rep. by its Senior Manager - Secretarial
Mr.Lingraj Patra

... Petitioner

Vs.

1.Prestige Vacations Pvt. Ltd
V.T.N. Arihant Presidency
Door No.139, 3rd Floor, North Usman Road
T.Nagar, Chennai 600 017
Represented by its
Managing Director
Mr.Balakrishnan Devaraj Rajesh Dev

2.The Deputy Registrar of Trade Marks
The Office of the Trademarks Registry
Intellectual Property Office Building
G.S.T. Road, Guindy, Chennai 600 032

... Respondents



WP(IPD)/5 to 22/2023

PRAYER: The writ petition filed under Article 226 of the Constitution of India, for issuance of a writ of Mandamus, to consider the petitioner's representation dated 08.09.2022 seeking to dismiss the rectification proceedings under rectification No.273899 in respect of trademark registration no.1342697 in class 36 filed by the 1st respondent.

For Petitioner : Mr.Arun C. Mohan

For Respondents : Mr.R.Sathish Kumar - R1

Mr.K.Subbu Ranga Bharathi
CGSC - R2

COMMON ORDER

The learned counsel for the writ petitioners place reliance on Section 125 of the Trademarks Act, 1999 and submitted that when once a suit for infringement of the trademark is laid and the validity of the registration of the trademark by the plaintiff is questioned, then any application for rectification under Section 57 of the Act shall be made only to the High Court.

2.The issue is not about the cause which has given the 1st respondent herein a right of action, but it is all about the forum where he can lay his petition



WP(IPD)/5 to 22/2023

for rectification of Register under Section 57 of the Act. Now that these petitions have been filed before the Registrar of Trademarks, this Court does not consider it necessary to let the Registrar decide what this Court may term as a jurisdictional fact for it to take cognizance of such representation which the petitioner herein has taken out. Instead, this Court deems it appropriate to order transfer of all the rectification petitions filed by the petitioner in relation to which this batch of 18 writ petitions are filed, be transferred to the file of this Court.

3.In conclusion, these petitions are disposed of with a direction to the 2nd respondent to transfer all the 18 rectification petitions which the 1st respondent had filed against the petitioner herein (which are the subject matter of each of the writ petitions herein) be transferred to the file of this Court. There shall be no order as to costs.

29.01.2024

kas

Index : Yes / No

Neutral Citation: Yes / No

3/4



WEB COPY



WP(IPD)/5 to 22/2023

N.SESHASAYEE, J.

kas

WP(IPD)/5 to 22/2023

29.01.2024