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A. No.6824 of 2024

Reserved on: 12.06.2024

Pronounced on: 14.06.2024

**A. No.6824 of 2023**  
**in**  
**C.S. (Comm Div) No.82 of 2022**  
**and**  
**(T) OP (TM) Nos. 4 to 7 of 2024**  
**P.B.BALAJI, J.**

This Application has been taken out seeking stay of CS (Comm. Div) 82 of 2022, pending disposal of the Trademark Rectification Application Nos 4 to 7 of 2024.

2. I have heard Mrs.S Savitha, the learned counsel for the petitioner in the Trademark Applications and the defendant in the Commercial Suit, and Ms. Anchal Nichani, learned counsel for the Respondent in all the OPs, including the stay Application and the plaintiff in CS(Comm. Div) 82 of 2022.

3. The Applicant would place emphasis on Section 124(1)(i) of the Trademark Act, 1999 and state that when Rectification Applications are pending, the suit should be stayed. She would also take me through the



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earlier order passed by this Court on 12.01.2024, while allowing the transfer Application, directing consolidation of the suit along with the trademark Applications. She would further state that rectifications have been filed by way of four Original Petitions, whereas in the suit, there is a claim against 35 trademarks, and therefore, the suit has to be deferred until the disposal of the Rectification applications.

4. Per contra, the learned counsel for the respondent and plaintiff in the Commercial Suit, submitted that the transfer Application was allowed and matters were consolidated only to avoid multiplicity of proceedings. She would place strong reliance on the order passed by this Court dated 04.08.2023 in Application No. 3981 of 2023 and CS No. 163 of 2018 in the case of *King Point Enterprise Co. Limited Vs. M/s.Maarg (India)*.

5. I have considered the rival submissions advanced by the learned counsel on either side.

6. I have gone through the order dated 04.08.2023, passed by this



Court, and relied on by the learned counsel for the learned counsel for the respondent. In very identical circumstances, this Court, referring to the mandate under Section 124 (4) of the Trademarks Act, 1999 and discussing the necessity of granting stay of the suit held that, *“when civil suit and rectification petitions are pending before the same forum and judge, there is no likelihood of inconsistency and the proceedings can always be tailored to meet specific requirements.”*

7. In the present case, the civil suit is filed not only for infringement, but also passing off and the rectification petitions would have a bearing only insofar as it relates to the relief of infringement and not insofar as the relief of passing off. Therefore, as directed by this Court in *King Point Enterprises* case, (referred herein supra), it would be just and proper that a joint trial is conducted of all the OPs and the suit. The petitioners in the rectification petition shall lead evidence first, and thereafter, the plaintiff in the CS (Comm. Div).82 of 2022, can enter the witness box to lead evidence, in the suit as well as the respondent in the rectification petition.



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8. In such circumstances, there is no necessity to grant stay of the suit as prayed for. In fine, this Application for stay of the suit is dismissed with the above directions in paragraph No.7.

**14.06.2024**

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**P.B.BALAJI, J,**

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**Pre-delivery ORDER in**  
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**in**  
**C.S. (Comm Div) No.82 of 2022**  
**and**  
**(T) OP (TM) Nos. 4 to 7 of 2024**

**14.06.2024**