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W.P.(IPD).No.25 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 19.10.2024

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(IPD).Nos.25 of 2024

Balasubramanya Hanagal Manjunath

... Petitioner

Vs

The Controller General of
Patents, Designs and Trademarks
The Controller of Patents and
Designs Patent Office, IPR Building,
SIDCO Plot, GST Road,
Guindy, Chennai – 600 032.

... Respondent

PRAYER:- This Writ Petition has been filed under Article 226 of Constitution of India, to issue a Writ of Mandamus to direct the respondent to accept petitioner's application for restoration (Form 15) of Patent No.385112 granted on 24.12.2021 and pass such other orders.

For Petitioner : Ms.V.Priya

For Respondent : Mr.K.Subbu Ranga Bharathi
CGC

ORDER

This writ petition has been filed to direct the respondent to accept petitioner's application for restoration (Form 15) of Patent No.385112 granted on 24.12.2021 and pass such other orders.

2. Heard Ms.V.Priya, learned counsel appearing for the petitioner and

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Mr.K.Subbu Ranga Bharathi learned Central Government Standing Counsel



appearing for the respondent.

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3. The learned counsel for the petitioner would contend that the petitioner to protect his invention had applied before the respondent and was also granted Patent with an requirement to pay the annuity by 25.03.2022. He had also made the payment to the agent which had been acknowledged by him on 12.02.2022. Therefore, the petitioner was under the impression that his Patent has been renewed.

4. In the interregnum, the mother of the petitioner also fell ill and died on 14.04.2023. The petitioner's younger son had also been diagnosed with autism spectra disorder. In such circumstances, he was unable to contact this agent with regard to the renewal. Only when he had filed a suit in O.S.No.911 of 2024 before the Additional City Civil Court, Bengaluru, had came to his knowledge that the Patent has not been renewed and he had to withdraw the suit and immediately thereafter, he had taken up an application for restoring his application and the same had not been accepted by the respondent. Hence, the present petition has been filed seeking to direct the respondent to accept the petitioner's application for restoration of the Patent granted to him on 24.12.2021.



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5. She had relied upon the judgment of the Hon'ble Delhi High Court, where in similar circumstances, the Official respondent was directed to accept the said application for restoration.

6. The learned Standing Counsel appearing on behalf of the respondent contend that to support the reasons, the petitioner had not produced any documents whatsoever and therefore, the same is bereft of any material evidence and therefore, would request this Court to dismiss the Writ Petition.

7. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

8. It is an admitted case that the petitioner had filed an application for grant of Patent and was also granted the same. He had not made appropriate application within the stipulated time for renewal and therefore, he had made an application for restoration of the Patent.

9. I have also perused the judgment relied upon the learned counsel appearing for the petitioner. It could be seen that what is to be protected is the invention made by the petitioner which he seeks to be Patented. If the



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request of the petitioner is not granted that would cause serious prejudice to him as the time and efforts for the invention would all go waste and the same would not be protected. It could be a perversity of justice on technical ground, if the claim of the petitioner is rejected.

10. Considering the aforesaid principle, I am inclined to allow the Writ Petition and issue the Mandamus as prayed for.

11. In fine, the Writ Petition is allowed and the respondent is directed to accept the petitioner's application for restoration (form 15) of Patent No.385112 granted on 24.12.2021.

19.10.2024

Gba

Index : Yes/ No

Speaking Order/ Non-speaking Order

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K.KUMARESH BABU,J.

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