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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 57/2024, CM APPLs. 3167/2024, 31610/2024

MEHBOOB AHMAD

..... Appellant

Through: Mr Sai Deepak, Mr Shravan Kumar
Bansal, Mr Ajay Amitabh and Mr
Aviral Srivastava, Advocates

versus

THE REGISTRAR OF TRADEMARKS & ANR. Respondents

Through: Mr Harish Vaidyanathan Shankar,
CGSC with Mr Srish Kumar Mishra,
Mr Alexander Mathai Paikaday and
Mr Krishnan V., Advocates

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

18.01.2024

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1. The appellant has filed the present appeal impugning the order dated 22.12.2023 passed by the learned Single Judge, whereby the appellant's application [I.A 26204/2023 in C.A.(COMM.IPD-TM) 20/2023] seeking clarification of the order dated 17.11.2023 was rejected.

2. The appeal, C.A.(COMM.IPD-TM) 20/2023, before the learned Single Judge was preferred by respondent no. 2 assailing the order dated 12.05.2023 passed by the Senior Examiner of Trademarks, whereby its

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application (application no. 4136359) seeking registration of device mark



in Class 16 for “Painting Brushes, Artistic Brushes, Roller Brushes”, was rejected.

3. In terms of the order dated 17.11.2023, the learned Single Judge had allowed the appeal [C.A.(COMM.IPD-TM) 20/2023] and had permitted the respondent no. 2 [the appellant before the learned Single Judge] to file an affidavit and other material on record. The Court had directed the Registrar to consider the same and proceed to issue a certificate of registration. The said order was premised on the finding that the rejection of the respondent no. 2’s application for registration of the trademark in question, was erroneous.

4. In the aforesaid backdrop, the appellant filed an application seeking clarification of the order dated 17.11.2023. It was contended on behalf of the appellant that the Registrar could not be required to issue a certificate of registration but was required to advertise the application.

5. The learned Single Judge rejected this application for clarification by the impugned order dated 22.12.2023 stating that the order dated 17.11.2023 was unambiguous.

6. We also find no ambiguity in the order dated 17.11.2023. Thus, we find no ground to interfere with the impugned order.

7. It appears that the appellant is essentially aggrieved by the order dated 17.11.2023 and thus, was required to avail of remedies, if any, in respect of the said order.

8. The present appeal is, accordingly, dismissed. Pending applications

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stand closed.

9. We clarify that this order would not preclude the appellant from availing of remedies in respect of order dated 17.11.2023 delivered in C.A.(COMM.IPD-TM) 20/2023.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

JANUARY 18, 2024

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Click here to check corrigendum, if any

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