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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **C.O. (COMM.IPD-TM) 41/2022**

EMANI LIMITED

.....Petitioner

Through: Mr. Hemant Daswani, Ms. Saumya
Bajpai and Ms. Pranjal, Advocates.

versus

HIMANI FOOD CORPORATION

.....Respondent

Through: Mr. Mukesh Thakur and Mr.
Dhirendra Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

18.11.2024

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1. The present rectification petition has been filed seeking removal of the registered trade mark "HIMANI" bearing trade mark no.1135392 in Class 29.
2. The aforesaid trade mark application was filed on behalf of the respondent on 23rd September, 2002 and was granted registration on 6th April, 2005, which was valid till 23rd September, 2022.
3. An O-3 Notice was issued by the Trade Marks Registry to the respondent on 13th June, 2022 informing the respondent that the registration of the aforesaid mark would expire on 23rd September, 2022.
4. Despite this, no renewal of the aforesaid mark was filed by the respondent within the prescribed time period.
5. As per Section 25 of the Trade Marks Act, 1999, after the removal of



the trade mark for non-payment of the prescribed fee, the maximum prescribed period for restoration of a trade mark is one year from the date of expiry of the registration of the trade mark.

6. In the present case, the prescribed time period for restoration of the aforesaid mark expired on 23rd September, 2023. However, the respondent did not apply for the restoration of the said mark within the aforesaid period.

7. Accordingly, as on date, the registration of the impugned mark stands expired.

8. In these circumstances, Mr. Hemant Daswani, counsel appearing on behalf of the petitioner submits that the present petition has become infructuous.

9. Pursuant to the order passed by the Predecessor Bench on 12th July, 2024, an affidavit has been filed on behalf of the petitioner wherein it is stated that the aforesaid mark has not been renewed by the respondent. The current status of the impugned application on the official website of the trade mark Registry reads as under:-

“Trademark is likely to be removed due to non-filing of Renewal request within prescribed time limit. In case of any discrepancy contact respective TM Registry.”

10. The counsel appearing on behalf of the respondent confirms the aforesaid position. He submits that the respondent has filed a fresh application for registration of the aforesaid mark.

11. In view of the fact that the impugned mark has lapsed on account of non-renewal, the present petition has become infructuous and is disposed of as such.

12. Needless to state that fresh registration application shall be decided by



the trade mark Registry on its own merits.

AMIT BANSAL, J

NOVEMBER 18, 2024

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