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

+ C.A.(COMM.IPD-TM) 11/2024, I.A. 3373/2024-Stay

RAJ VARDHAN PATODIA (HUF)

.....Appellant

Through: Mr. Kunal Vajani, Mr. Kunal
Mimani, Mr. Anshuman Gupta,
Mr. Prashant Alai and Mr. Aman
Brar, Advocates.

versus

REGISTRAR OF TRADE MARKS & ANR.

.....Respondents

Through: Mr. Manish Singhal, Advocate.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

05.08.2024

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1. By the present appeal under Section 91 of the Trade Marks Act, 1999, the appellant seeks to impugn the order dated 03.11.2023 passed by the respondent no.1 (hereinafter referred to the “*impugned order*”).
2. The appellant herein is an HUF having registered office at 3A, Auckland Place, 10th Floor, Kolkata and is engaged in the business of planning, developing / constructing real estate projects.
3. The appellant, being a proprietor and user of the trade mark “*SIGNUM GROUP*” since 2012 applied for registration of the aforesaid trademark vide application no.2463465 in Class(s) 36 and 37 which proceeded for advertisement in the Trade Mark Journal No. 1677.

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4. Thereafter, the respondent no.2 also filed an application bearing no.3328760 seeking registration of the mark 'SIGNUM 37' claiming use since 2016 in Class 36. The appellant filed an Opposition bearing no.1032118 to the said trademark application bearing no.3328760 of the respondent no.2, to which the respondent no.2 in turn filed its counter statement.

5. In furtherance thereto, the respondent no.1, vide its e-mail dated 13.02.2023, sent a copy counter statement of the respondent no.2 to the appellant. Though, the appellant vide its e-mail dated 21.03.2023 and vide its affidavit filed on the date of hearing before the respondent no.1 apprised the respondent no.1 that the appellant had been given the incorrect documents instead of the counter statement, the respondent no.1 in complete ignorance of the same instead proceeded to pass the impugned order whereby Opposition of the appellant bearing no.1032118 was deemed to be abandoned.

6. Hence, the present petition challenging the impugned order.

7. Learned counsel for the appellant, without proceeding to address his arguments, at the outset submits that since the respondent no.1 in its reply has admitted that the email containing copy of the counter statement of respondent no.2 was inadvertently not sent due to some technical glitch and the counter statement pertaining to the trademark application is not associated with the impugned mark of the respondent no.2.



8. Accordingly, taking note of the above submission and without going into the merits of the dispute involved, this Court deems it proper and appropriate to set aside the impugned order dated 03.11.2023 passed in Opposition No.1032118 filed by the appellant.

9. As such, the trademark application No.3328760 of the respondent no.2 is revived/restored to its original position.

10. In view thereof, learned counsel appearing for the respondent no.1 submits that respondent no.1 will initiate appropriate steps for serving the correct copy of the counter statement (TM 6) as filed by the respondent no.2 to the appellant herein, within a period of four weeks from the date of restoration of the trademark application no.3328760 and proceed in accordance with law thereafter.

11. Needless to say, the registration certificate no.3328760 dated 03.11.2023 issued by the respondent no.1 in favour of the respondent no.2 qua registration of its trademark application is also set aside.

12. Accordingly, the present petition along with pending application is disposed of.

SAURABH BANERJEE, J

AUGUST 5, 2024

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