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

+ C.O.(COMM.IPD-CR) 754/2022

M/S AMIR CHAND JAGDISH KUMAR (EXPORTS)

LTD

.....Petitioner

Through: Mr. Sudarshan Bansal with Mr. Arpit
Dudeja, Advocates.

versus

MR BHUPINDER JAINAA AND ANRRespondents

Through: Mr. NK Manchanda, Advocate for
respondent no. 1.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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10.12.2024

1. The present petition has been filed under Section 50 of the Indian Copyright Act, 1957, for cancellation/rectification of the registered copyright under A-74496/2005, in favour of respondent no. 1.

2. The case, as canvassed on behalf of the petitioner in the petition, is as follows:-

2.1 Petitioner's company is engaged in the business of processing, marketing and selling of rice. Further, the petitioner has also expanded its business and is exporting all kinds of rice to various countries.

2.2 In the year 1982, the petitioner honestly and *bonafidely* adopted its trade mark AEROPLANE along with Device of Aeroplane with distinctive art work, get-up and make-up. The petitioner is the proprietor of the said



trade mark AEROPLANE LABEL in relation to said goods.

2.3 The art work in AEROPLANE BRAND LABEL is a unique and very distinctive get-up, make-up, composition, illustration and as such having distinctive features. It being new and original in character, the petitioner enjoys Copyright in the said art work under Indian Copyright Act, 1957.

2.4 The details of the copyright registrations in favour of the petitioner are as follows:-

(a) Trade Mark Registrations

1. No.439849 in Class-30 for AEROPLANE BRAND LABEL WITH DEVICE OF AEROPLANE registered since 05.07.1985.
2. No.588262 in Class-30 for AEROPLANE BRAND LABEL WITH DEVICE OF AEROPLANE registered since 08.01.1993.
3. No.1007672 in Class-30 for AEROPLANE BRAND LABEL WITH DEVICE OF AEROPLANE registered since 04.05.2001.

(b) Copyright Registrations

1. A-64116/2003 - AEROPLANE BRAND LABEL - Registered.
2. A-83512/2008 - AEROPLANE LA-TASTE LABEL - Registered.
3. A-86877/2009 - SUPER AEROPLANE PRIORITY LABEL - Registered.

2.5 In the year 1982, petitioners adopted, created and invented series of various AEROPLANE LABEL having distinctive artistic features therein. All the said artistic features are original in character and the petitioner claims to be owner thereof.

2.6. The respondent no. 1 is also engaged in the business of processing and marketing of rice. The respondent dishonestly and fraudulently adopted the artistic work FLYKING LABEL WITH DEVICE OF AEROPLANE in relation to their products.



2.7 The respondent no. 1 with the ulterior motive and *malafide* intention adopted the alleged trade mark/art work FLYKING LABEL WITH DEVICE OF AEROPLANE in relation to rice.

2.8 The impugned artwork i.e. the DEVICE OF AEROPLANE is identical and exact copy to the petitioner's art work in AEROPLANE BRAND LABEL art work in each and every aspect, including, get-up, make-up and artistic manner etc.

2.9 Thus, the present petition has been filed.

3. Today, Mr. NK Manchanda, learned counsel appearing for the respondent no. 1, submits that the respondent no. 1 has already stopped user of the DEVICE OF AEROPLANE since the year 2010, when injunction order was passed against the respondent no. 1 in proceedings pending between the parties in District Court, Saket.

4. Learned counsel appearing for the respondent no. 1 further submits that on account of the respondent no. 1 having stopped the user of the DEVICE OF AEROPLANE, he has no objection, if the present petition is allowed.

5. The aforesaid statement is taken on record.

6. Accordingly, it is directed that copyright registration in favour of respondent no. 1 under registration no. A-74496/2005, in favour of respondent no. 1, is hereby cancelled.

7. The Registrar of Copyright is directed to carry out the requisite rectification in its Register.

8. With the aforesaid directions, the present petition is disposed of.

MINI PUSHKARNA, J

DECEMBER 10, 2024/c