



\$~9

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **C.O. (COMM.IPD-TM) 71/2021**
DLF LIMITEDPetitioner

Through: Ms. Meghna Mishra, Ms. Shriya
Misra, Mr. Tarun Sharma and Ms.
Yashodhama Gupta, Advs.
versus

BACHAN PROPERTIES PVT. LTD. AND ANR. Respondents
Through:

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

% **ORDER**
21.05.2024

1. This rectification petition has been filed seeking removal of the mark



“RIVER VALLEY” registered in favour of respondent in
Class 36 by No.1307230, applied for on 06th September, 2004, use claimed
since 1969, granted on 20th January, 2006.

2. The petitioner is a real estate company founded in 1946 in the
business of developing *inter alia* real estate projects. In October-November
2009, they launched a residential project at Dabolim, Goa under the brand
name “DLF-GOA”. The site selected was in the river valley of Zuari River.
The petitioner named its project “RIVER VALLEY” marketed under the
brand “DLF-GOA”.



3. In February 2010, the petitioner was served with a legal notice dated 02nd January, 2010, from the lawyers of respondent No.1 raising an objection to the use of the mark “RIVER VALLEY” on the ground that the registration was in favour of respondent no.1 in Class 36, which included real estate management and projects.

4. Reply was sent on 13th February, 2010, stating *inter alia* that “RIVER VALLEY” was a descriptive mark and exclusive rights claimed to it by the respondent.

5. This rectification petition was filed before the Intellectual Property Appellant Board (‘IPAB’) on 30th March, 2010. Thereafter, a suit CS(OS) 1194/2010 was filed by the respondent before this Court.

6. On 13th May, 2016, by an order of this Court the suit was adjourned *sine die* awaiting the rectification proceedings before the IPAB. Subsequent to the abolition of the IPAB in 2021, this rectification petition was transferred to this Court.

7. Despite various attempts to serve the respondent, the respondent has not appeared and has been proceeded *ex parte* by order dated 21st December, 2023.

8. It is stated by Ms. Meghna Mishra, Counsel for petitioner that, the petitioner has since obtained a registration in the device mark being

River Valley

, by application dated 23rd November, 2009 in Class 35, 36 and 37. It is stated that the said project was not completed due to certain administrative issues.

9. In these circumstances, Ms. Mishra, counsel for the petitioner states



that they would have no objection, if a disclaimer is appended to the registration of the respondent's mark, in that, there shall be no exclusive right to the word "RIVER VALLEY", which is descriptive in its essence.

10. This submission finds favour with this Court, particularly since on a perusal of the record, as well as, the counter statement filed by the respondent, it seems they were carrying on business in the "RIVER VALLEY" based in Ludhiana in various projects and businesses.

11. Considering the provisions of Section 9(1)(a), (b), (c) of the Trade Marks Act, 1999, it would be appropriate if the register is rectified to the extent that the disclaimer is appended to the registration of the impugned mark to the effect that the respondent "*shall not claim any exclusivity in the word River Valley*".

12. The Register be rectified in these terms, within a period of four weeks. The website of Trade Mark Registry be updated accordingly.

13. Petition is disposed of in the above said terms.

14. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MAY 21, 2024/MK/igtk