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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMMERCIAL MISCELLANEOUS PETITION NO. 106 OF 2025

Praveen Kumar Sanghvi

... Petitioner

Versus

Registrar of Trade Marks

... Respondent

Mr. Rahul Punjabi for Petitioner.

Adv. Tanu N. Bhatia for the Respondent.

Pranjal Sharma Examiner of Trade Marks & Copyright present.

Coram : Sharmila U. Deshmukh, J.

Date : July 21, 2025.

P. C. :

1. By this Petition the challenge is to the order dated 10th February, 2025, passed by the Senior Examiner of Trade Marks holding that the Application No. 5156878 is deemed to have been abandoned by operation of Section 21(2) of the Trade Marks Act, 1999 ("**TM Act**") and consequently opposition filed abates.

2. Learned Counsel appearing for the Petitioner submits that the Petitioner did not receive notice of opposition as provided under Section 21(2) of the TM Act. He submits that there is no evidence produced on record to demonstrate that the Email was infact sent by the Respondent and was received. He submits that by order of 23rd

April, 2025, the Respondent was directed to place on record the affidavit along with document and other relevant documents to substantiate the service of the opposition upon the Petitioner. Pointing out to the affidavit-in-reply, he submits that only the extract from the Trade Mark Registry showing the status of dispatch and Email sent by the Respondent has been produced and reliance is placed solely on the said document. He submits that in an identical facts, the Madras High Court in the case of ***Ramya S. Moorthy vs. Registrar of Trade Marks (W.P. (IPD). No. 3 of 2023 & W.P. (IPD). No. 4 of 2023*** dealt with the provision of Section 21(2) of the TM Act to hold that the prescribed time limit would run only from the date of receipt of Email and that the document does not qualify as evidence of receipt by the Petitioner.

3. *Per contra*, learned Counsel appearing for the Respondent submits that the service was in accordance with Rules framed under the TM Act. She submits that only evidence of the service on the Respondent is the statement of dispatch which shows that the Email was sent successfully. She would further submit that impugned order was also sent on the same Email which has been duly received which infact shows that the Email was sent at correct address.

4. The provisions of Section 21 (2) of the TM Act provides for the service upon the Applicant of the notice of opposition pursuant to

which a counter statement is required to be filed by the Petitioner failing which the Petitioner shall be deemed to have abandoned his Application. The Madras High Court in the case of ***Ramya S. Moorthy vs. Registrar of Trade Marks (supra)*** considered Section 21(2) of the TM Act and Rule 17 and 18 of Trademark Rules, 2017 dealing with the address for service and service of notice. The Madras High Court held the prescribed time limit would only run from the date of receipt of e-mail. The Madras High Court declined to accept the status report of email as evidence of receipt by the Petitioner. In that case the same document which is now sought to be relied upon by the Respondent was tendered as evidence of service upon the Petitioner.

5. Applying the same principle, in the instant case apart from the extract of the status report, there is no document produced to demonstrate evidence of receipt of email by the Petitioner or even copy of email so as to construe that the notice of opposition was duly sent and received and the time for filing of the counter statement commenced. As there is no evidence based on which it can be accepted that the notice of opposition was received by the Petitioner, the impugned order holding that the Application is deemed to have been abandoned cannot be sustained and is hereby quashed and set aside.

6. The Application is restored to the file of the Registrar of Trade Mark for fresh consideration. The counter statement to be filed

by the Petitioner within a period of four weeks from the date of uploading of this order on the official website. The Application to be considered afresh after providing an opportunity of hearing to both the parties.

7. The Miscellaneous Petition stands allowed in the above terms.

[Sharmila U. Deshmukh, J.]