

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

COMMERCIAL MISCELLANEOUS PETITION NO. 120 OF 2025

Transindia Real Estate Ltd

...Petitioner

Versus

The Registrar Of Trade Marks

...Respondent

Mr. Hiren Kamod a/w Himanshu Deora, Kunal K. S. Saswadkar and Anupriya Alok and Rupa Shaw for the Petitioner.

Mr. Vinit Jain, Ashok Varma, Gaurav Mhatre for Respondent.

CORAM : ARIF S. DOCTOR, J.
DATE : 2nd December, 2025

P.C.

1. The captioned Petition seeks the following reliefs.

“a. To allow this appeal and set aside. the Refusal Order dated 07.01.2025 passed in Subject Application no. 5972378 in class 37 by the Respondent, thereby accepting the Subject Application and directing the Respondent to advertise the Applied for Mark in the Trademarks Journal; and

b. Grant the cost of the Present Petition in favour of the Petitioner and.

c. Pass such other further order as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case in favor of the Petitioner”.

2. The Petitioner is aggrieved by an order dated 7th January, 2025 passed by Registrar of Trademarks, by which the Petitioner’s Application No. 5972378 in Class 37 for registration of trade mark came to be rejected.

3. Mr. Jain, Learned counsel appearing on behalf of the Respondent i.e. Registrar of Trademarks, has today tendered a copy of an Email dated 26th November, 2025, addressed to him by the Registrar of Trademark, which records thus:

"Sir,

In the above matter the applicant had filed 3 applications of same trademark "Transindia Real Estate"(2 Device Mark and 1 word mark) all in class 37. The Registrar accepted and advertised one mark due to the erroneous examination of application on the part of examiner. Later the 2nd application got accepted by the senior examiner in show cause hearing on the basis of existing earlier trade mark registered in same class (the one which got registered due to erroneous examination). However, in the case of trade mark in question the other senior examiner checked the earlier 2 application history of the 2 registered trade marks and figured out the error of the examiner in first application and accordingly refused the mark in question.

Now the concerned authority is of view that since the petitioner has got 2 similar marks registered in the Register of Trade Marks and no one came to raise any objection to those registrations, we may not refuse the impugned mark, as the right over the trade mark 'Transindia Real Estate' has already accrued to petitioner/applicant due to registration of 2 trade marks in same class.

Therefore we may submit before the Hon'ble Court that since the right has already accrued to the petitioner, the registrar may register the mark if the Hon'ble High Court orders so, or the registrar may re-hear the matter if the High Court remands the matter back.

Regards,

Ankit Sharma,

Examiner of TM and GI

Trademark Registry Mumbai"

4. Basis the above, Mr. Jain submits that the Court may pass appropriate orders.

5. Mr. Kamod learned counsel appearing on behalf of the Petitioner submitted that, the matter may be remitted back for consideration afresh, since the Registrar of Trademarks has specifically recorded as follows.

“Now the concerned authority is of view that since the petitioner has got 2 similar marks registered in the Register of Trade Marks and no one came to raise any objection to those registrations, we may not refuse the impugned mark, as the right over the trade mark 'Transindia Real Estate' has already accrued to petitioner/applicant due to registration of 2 trade marks in same class”.

6. In light of the above, the impugned order dated 7th January, 2025 is set aside.

7. The Registrar of Trademark shall now proceed to advertise the trade mark, in accordance with the relevant rules and proceed further within a period of two months.

8. Petition is accordingly disposed of.

(ARIF S. DOCTOR, J.)