

C.S.No.163 of 2018 & (T)OP(TM) No.32 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on	01.08.2025
Pronounced on	09.10.2025

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR
RAMAMOORTHY

C.S. No.163 of 2018
&
(T)OP(TM) No. 32 of 2023

C.S. No.163 of 2018

M/s. Maarg (India),
No.194/3, Rasappa Street, Park Town,
Chennai-600 003,
Tamil Nadu, India
A Registered Partnership firm
Rep. by its Partner Mutahir Gulam Hussain ... Plaintiff

Vs.

King Point Enterprise Co. Ltd.
U-IF, No.2, Chung Shan 2nd Road,
Chien Jen, Dist, Kaohsiug, Taiwan,
Republic of China ... Defendant

(T)OP(TM)No.32 of 2023(ORA/95/2012/TM/CH)



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King Point Enterprise Co. Ltd.
(A Company incorporated and existing under
the laws of Taiwan, R.O.C.)
15 F1-6, No.110, San Duo,
4th Road, Ling Ya District,
Kaohsiung City, Taiwan, R.O.C.

Having address for service in India
Aditya & Associates
Advocate for the Applicant
Advocates, Patent & Trademark Attorneys
405 & 306, Kapadia Chamber
599, JSS Road,
Marine Lines, Mumbai (Bombay) 400 002. ... Petitioner

-Vs-

1. Mr. Ali Asgar and Mr.Mutahir
Trading as: M/s.Maarg (India),
No.194/3, Rasappa Street, Park Town,
Chennai-600 003.

2. The Registrar of Trade Marks,
Trademark Registry,
Anna Salai,
Chennai. ...Respondents

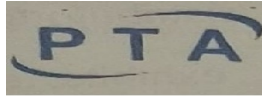


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Prayer in C.S.No.163 of 2018: Complaint filed under Order VII Rule 1

read with Section 151 of the Code of Civil Procedure, 1908 and Sections 27, 28, 29, 134 & 135 of the Trade Marks Act, 1999, Sections 51, 55, 62 of the Copyrights Act, 1957 read with Order IV Rule 1 of Madras High Court Original Side Rules, praying to grant a Judgment and Decree on the following terms:

(a) granting a permanent injunction, restraining the defendants, their servants, agents, distributors or anyone claiming through them from infringing the Trade mark



and identical packaging/get-up of the defendants or as their Trade mark/ trading style or corporate name/ or by using any other Trade Mark which is in any way visually, phonetically or deceptively similar to the Plaintiff's Trade Mark and to restrain the defendants, their servants, agents, distributors or anyone claiming through them from using letter heads, exhibits, sale bills or any other material containing the Trade mark "PTA" and identical packaging/get-up or as their Trade mark/ trading style or corporate name/ or by using any other Trade Mark which is in any way visually, phonetically or deceptively similar to the



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Plaintiff's Trade Mark,

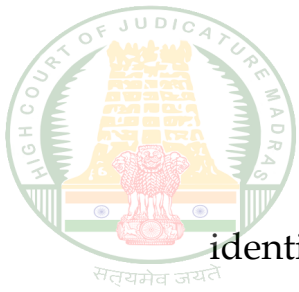
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(b) Granting Permanent injunction, restraining the Headmark "PTA" inscribed in the screws or deceptively similar characters in any way visually, phonetically or deceptively similar to the Plaintiff's Trade Mark and to restrain the defendants, their servants, agents, distributors or anyone claiming through them from using or selling screws with the head mark "PTA" or by using any other deceptively similar characters in any way phonetically to the Plaintiff's trademark.

(c) granting a permanent injunction, restraining the defendants, their servants, agents, distributors or anyone claiming through them from passing-off the Trade mark



and identical packaging/get-up of the defendants or as their Trade mark/ trading style or corporate name/ or by using any other Trade Mark which is in any way visually, phonetically or deceptively similar to the Plaintiff's Trade Mark and to restrain the defendants, their servants, agents, distributors or anyone claiming through them from using letter heads, exhibits, sale bills or any other material containing the Trade mark "PTA" and



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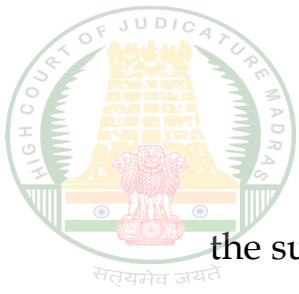
identical packaging/get-up or as their Trade mark/ trading style or corporate name/ or by using any other Trade Mark which is in any way visually, phonetically or deceptively similar to the Plaintiff's Trade Mark,

(d) The Defendants be ordered to surrender to the Plaintiffs for and/or deceptively similar to that of the Plaintiff's registered trade mark label "PTA".

(e) The Defendants be ordered to prepare and submit an account of profits made by them by the unlawful use of the Trade Mark "PTA" in their products and/or in the head mark of the goods of the Plaintiffs and thereafter to pass a final decree upon ascertaining the accounts, in favour of the Plaintiffs for the amount of the profit found to have been made by the defendants, after the defendants have rendered their accounts.

(f) The Defendants be ordered to pay damages of sum of Rs.50,00,000/- (Rupees Fifty lacs only) for the notional loss.

(g) Directing the defendants to pay to the plaintiff the costs of



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the suit,

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(h) Pass such further or other orders, as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in (T)OP(TM) No.32 of 2023: This transfer original petition filed under Section 47/57/125 of the Trade Marks Act, 1999, prays that this Court be pleased to pass the following order/orders:

- a) Remove / rectify / expunge the registered Trademark no. 1677459 in class 6 dated 17/04/2008 for the mark PTA logo;
- b) the Rectification Petition be allowed; and
- c) Cost of these proceedings be awarded.

For Plaintiff /
1st Respondent

: Mr.P.S.Raman,
Senior Advocate for
M/s S. Suresh Kumar &
S. Sachin Priya Daniel

For Defendant/
Petitioner

: Mr. Satish Parasaran,
Senior Advocate for
K.Premchandrar
N.C.Vishal
S. Yeseswini for
M/s.Anand and Anand



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For 2nd Respondent : Mr. K. Subbu Ranga

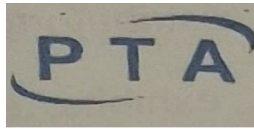
Bharathi

Central Govt. Standing

Counsel

COMMON JUDGMENT

M/s Maarg (India) (Maarg), a registered partnership firm, presented a civil suit on 5th March, 2018 alleging that the use of the trade mark 'PTA' by King Point Enterprise Company Limited (King Point) infringes the following registered mark of Maarg:



Remedies in respect of both infringement and passing off were requested in the suit. King Point challenged the validity of registration of Maarg's trade mark by asserting that King Point is the proprietor and prior user of the mark and had adopted and used such mark globally and in India. Therefore, King Point filed a petition to rectify the register by expunging the entry relating to Maarg's mark from the Register of Trade Marks. Both the suit



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and the rectification petition were heard jointly pursuant to a joint trial, and are disposed of by this common judgment.

Pleadings, issues and evidence

2. In the plaint, Maarg asserts that it coined, conceived and adopted the trade mark 'PTA' in relation to hardware items in the year 1997. It is stated that the logo was designed later in the year 2001. It is also stated that the trade mark 'PTA' has been in use since 1997 and the logo since the year 2001 in relation to hardware items. The plaintiff further asserts that screws bearing the trade mark PTA as a head mark have been advertised extensively and that Maarg has acquired considerable reputation and goodwill.

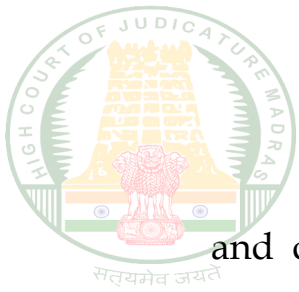
3. Maarg states that it became aware of King Point's use of the trade mark PATTA along with the head mark PTA in relation to screws. It is further stated that Maarg did not have



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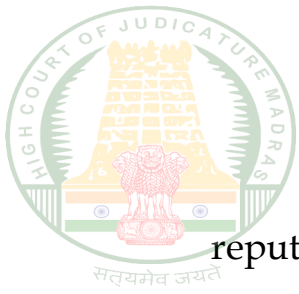
any objection to use of the trade mark PATTA by King Point, but had strong objection to the unauthorized and *mala fide* use of PTA on such screws. After pointing out that King Point had filed a suit for infringement of the trade marks PATTA and PTA against Maarg before the Delhi High Court in C.S.(OS) No.1409 of 2011, Maarg states that the injunction granted in respect of use of the trade mark PTA in the said suit was vacated and that the suit was dismissed for default by judgment dated 18th April, 2017. It is further stated that the petition for restoration of the suit was dismissed on 13th December, 2017. After pointing out that the device mark was duly registered under trade mark No.1677459 in class 6 and that such registration was renewed up to 17th April, 2028, Maarg states that it is entitled to relief both in respect of infringement and passing off.

4. In the written statement, King Point states that it coined



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and conceived the trade mark PATTA in 1987 and the trade mark PTA in 1990. After referring to registrations obtained in about 96 jurisdictions across the world for PATTA and PTA, King Point states that the word mark PATTA and device marks containing the element PATTA were registered in India. As regards the trade mark PTA, it is stated that two applications were filed in 2009 claiming user from 20th June, 2002 and that the said applications are pending on account of being opposed by Maarg. King Point states that the trade mark PATTA is used on the packaging and that the trade mark PTA is used on the product. After setting out the worldwide turnover for financial periods 2006 to 2011, King Point states that products bearing the trade marks PATTA and PTA have been sold in India through King Point group companies, i.e. PATTA International Limited (PATTA International) and Pro-Bin International Limited (Pro-Bin International), much prior to the user claim of Maarg. Therefore, it is stated that King Point has acquired tremendous



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reputation and goodwill in relation to the use of the trade marks

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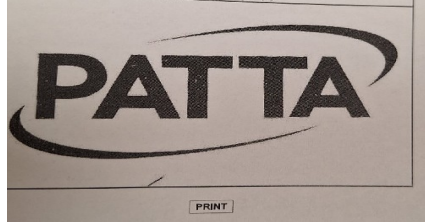
PATTA and PTA for screws.

5. As regards the earlier suit [C.S.(O.S) No.1409 of 2011] before the Delhi High Court, it is stated that the suit was dismissed for non-prosecution because King Point operates from Taiwan and was unable to provide instructions to its lawyers for the effective prosecution of the suit. According to King Point, Maarg was doing business through M/s Amkar International (Amkar International) (which is said to have been later reconstituted as Valmax) with King Point and that the said Amkar International imported products bearing the trade marks PTA and PATTA from King Point. King Point alleges that the invoices submitted by Maarg to prove user since March 2001 are forged documents. In order to establish the *mala fide* intention of Maarg, King Point referred to the filing and subsequent withdrawal of applications by Maarg for registration of the



following device mark

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under trade mark application No.1632632 in class 6 on 19th December, 2007 and trade mark application No.1670759 in class 6 on 31st March, 2008. Consequently, King Point asserts that the suit is liable to be dismissed and that Maarg's mark should be removed from the Register of Trade Marks.

6. On the basis of the pleadings in the suit and rectification petition, the following common issues were framed on 06th October, 2023:

- "1. Whether Maarg or King Point is the prior adopter and user of the Trade Mark PTA?*
- 2. Whether Maarg was previously the*



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distributor of King Point and whether the adoption and use of the mark PTA originated from such past relationship?

3. Whether the adoption and use of the trade mark PTA by Maarg is dishonest?

4. Whether the registration of the trade mark PTA was in contravention of applicable provisions of the Trade Marks Act, 1999?

5. Whether the use of the mark PTA by Maarg is likely to create confusion in the market?

6. Whether King Point infringed the registered trade mark PTA of Maarg?

7. Whether King Point passed off its products as those of Maarg?

8. Whether Maarg is entitled to the reliefs claimed in the suit?

9. Whether Maarg is entitled to a sum of Rs.50,00,000/- as damages?

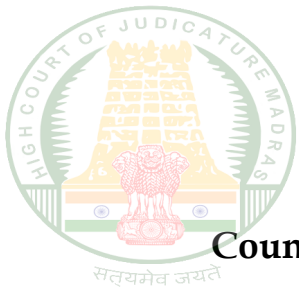
10. Whether King Point is entitled to the relief claimed in the rectification petition?

11. Whether the parties are entitled to any other relief?"



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7. Because King Point was directed to lead evidence first in relation to the validity of registration of Maarg's trade mark, King Point examined Abhishek Jain, constituted attorney and authorized signatory, as PW1. During the examination-in-chief of PW1, 24 documents were exhibited as Exs.P1 to P24. PW1 was cross-examined by learned counsel for Maarg. Maarg adduced evidence by examining Ali Asgar, Partner, as RW1. During the examination-in-chief of RW1, 20 documents were exhibited as Exs.R1 to R20. RW1 was cross-examined by learned counsel for Maarg. An additional proof affidavit was filed by Abhishek Jain on behalf of King Point thereafter. In course of the examination-in-chief of Abhishek Jain in relation to the additional proof affidavit, 6 documents were exhibited as Ex.P25 to P30 and there was a brief cross-examination thereon. The exhibits were compiled and filed as convenience volumes I-VI.



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Counsel and their contentions

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8. Oral arguments on behalf of King Point were advanced by Mr.Satish Parasaran, learned senior counsel, assisted by Mr.Prem Chandar, learned counsel. Oral arguments on behalf of Maarg were advanced by Mr.P.S.Raman, learned senior counsel, assisted by S. Suresh Kumar, learned counsel. Mr.Subbu Ranga Bharathi, learned Central Government Standing Counsel, appeared on behalf of the Registrar of Trade Marks. Both King Point and Maarg also filed written submissions.

9. Mr.Satish Parasaran, learned senior counsel, submitted that King Point conceived of, adopted and used the trade marks PATTA and PTA in relation to screws. He submitted that use of the trade marks PATTA and PTA in relation to hardware products commenced in 1987 and 1990, respectively, and that King Point entered the Indian market in the year 2001. He submitted further that Maarg imported goods produced by King

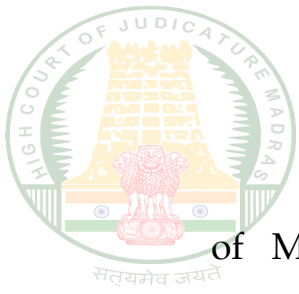


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Point and bearing the trade marks PATTA and PTA through related companies such as Valmax and Amkar International.

Because Maarg asserts use of PTA from 2001, whereas King Point asserts use of the same mark from 1990, he contended that King Point is the prior user. By referring to the earlier suit filed by King Point in the Delhi High Court, learned senior counsel submitted that an *ex parte* interim injunction in relation to use by Maarg of both PATTA and PTA was granted. Later, the order was limited to the trade mark PATTA. With regard to the dismissal of the suit, learned senior counsel submitted that the dismissal was for default and not on merits.

10. He next referred to the applications for registration of the trade marks PATTA by Maarg between 2007 and 2008 and the withdrawal thereof. He contended that the filing and prosecution of such applications underscores the *mala fide* intent



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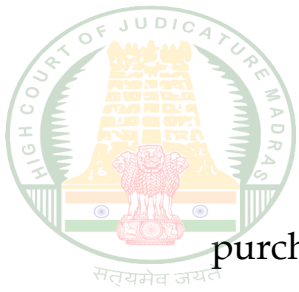
of Maarg. In order to buttress the contention that many documents exhibited by Maarg are fabricated, by referring to the cross-examination of RW1, particularly question Nos.104 to 109 and the answers thereto, learned senior counsel pointed out that RW1 admitted that PTA was mentioned in Ex.R21 but not in the first executed partnership deed of Maarg. Similarly, with reference to the purported Memorandum of Agreement dated 21st November, 1999 between Maarg and M/s Unique Industries (Ex.R3), he submitted that a rubber stamp is affixed thereon with a phone number (044-25331928) that did not exist in 1999. By referring to the invoice issued by King Point in relation to the supply of 675 cartons of screws to Canco Industries Pvt. Ltd., New Delhi (Canco Industries), in January 2002, learned senior counsel submitted that goods bearing the trade mark PATTA and PTA were imported into India by entities such as Canco Industries.



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11. He next referred to the transactions entered into by

Valmax and Amkar International with King Point. In this connection, by referring to Ex.P7 at page 345 of Vol. II, he submitted that the said document is an email from Riaz Ahmed of Valmax to Rita of King Point. Learned senior counsel also referred to the cross-examination of RW1 particularly question and answer Nos.28, 50 to 57. After pointing out that RW1 stated that he does not remember a firm by name Valmax because it was a one-time transaction (question and answer No.28), he proceeded to point out that RW1 admitted, in response to questions 53 to 56, that the amount due and payable to Valmax as on 31st March, 2009 and 31st March, 2010, respectively, was Rs.14,83,931/- and Rs.29,31,544/-. He also pointed out that RW1 admitted that Valmax was the creditor to whom the maximum amount was due from Maarg as on 31st March, 2010. By referring to question and answer Nos.38 to 44 of RW1, learned senior counsel pointed out that RW1 admitted that Maarg used to



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purchase products bearing the trade mark PATTA from King Point for resale. He further submitted that RW1 stated that Maarg's application for registration of the trade mark PATTA was an unintentional error. Therefore, learned senior counsel concluded his submissions by contending that the suit filed by Maarg is liable to be dismissed and that the rectification petition is liable to be allowed.

12. Mr.P.S.Raman, learned senior counsel, responded to these contentions. At the outset, he submitted that Maarg does not dispute that King Point is the proprietor of the trade mark PATTA. With regard to the genesis of the trade mark PTA, he submitted that it is an abbreviation of "Praise The Almighty". Before dealing with the merits, he raised a preliminary objection that the suit has not been presented with proper authorization. By referring to the suit filed in the Delhi High Court, he pointed out that such suit was filed by Mr. Anil Agarwal as constituted



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attorney of King Point. According to him, Mr. Anil Agarwal's sister-in-law filed an application for registration of the trade mark PTA and subsequently withdrew the same. The rectification petition was filed through Mr.Yusuf Unjawala, but the authorization was not filed. After pointing out that the written statement was filed through Mr.Abhishek Jain, who was a dealer of the company since 2014, he referred to precedents.

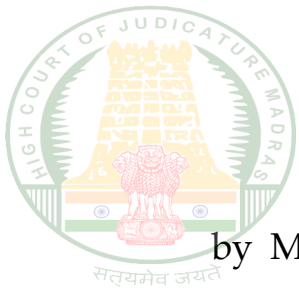
13. Relying on the judgment of the Hon'ble Supreme Court in *Janki Vashdeo Bhojwani & Anr. v. Indusind Bank Ltd. & Ors.* (2005) 2 SCC 217 (*Janki Vashdeo Bhojwani*), learned senior counsel submitted that an agent can only depose with regard to acts done by him as agent and in respect of which he has complete knowledge. He also relied upon the judgment of the Hon'ble Supreme Court in *Manisha Mahendra Gala v. Shalini Bhagwan Avatramani*, MANU/ST/0301/2024 (*Manisha Mahendra Gala*) and the judgment of the Delhi High Court in *Nibro Limited V.*



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National Insurance Co. Ltd., MANU/DE/0005/1991, for the proposition that Order 29 Rule 1 of the Code of Civil Procedure, 1908 (the CPC), does not authorize persons mentioned therein to institute suits on behalf of the corporation concerned, but only authorizes them to sign and verify pleadings on behalf of the corporation. In the absence of proper authorization from King Point, he contended that the suit is liable to be dismissed as not being duly authorized.

14. Without prejudice to these contentions, learned senior counsel dealt with the merits of the dispute. By referring to the memorandum of agreement, which was exhibited as Ex.R3, he contended that it establishes adoption of the trade mark PTA in 1999 by Maarg. As an explanation for the phone number, learned senior counsel submitted that the rubber stamp was affixed on Ex.R3 when the document was filed later in the Delhi High Court. With regard to the date of first use of the mark PTA



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by Maarg, by referring to invoice dated 12th May, 2001(Ex.R8 series), learned senior counsel submitted that it establishes prior use by Maarg.

15. As regards the user claim by King Point, with reference to the invoice dated 4th January 2002 to Canco Industries in Ex.P11 series at page 637 of Volume-III, learned senior counsel submitted that the said invoice refers to the supply of 675 cartons of drywall screws, bugle head phillips drive, etc. but does not provide any evidence of the use of the mark PTA in relation to screws. In this connection, he referred to the cross-examination of PW1. On being questioned regarding the invoices, learned senior counsel pointed out that PW1 admitted that Ex.P5 does not even contain the name of King Point on the carton. He also pointed out that PW1 admitted that the cartons were not manufactured in India. He then referred to the cross-examination of RW1 with regard to whether King Point or its



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sister concerns were licensed to export goods to India and with regard to authorization from King Point, Patta International or Pro-Bin International to RW1. By referring to the answers of RW1, learned senior counsel submitted that he was unable to provide details of licenses, if any, or the documents authorizing him to depose on behalf of the said entities.

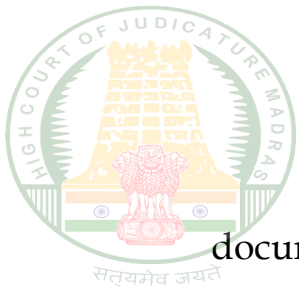
16. With regard to purchases made by Maarg from Valmax, learned senior counsel submitted that even the nature of goods purchased by Maarg from Valmax cannot be discerned from the said documents and that, consequently, the said documents are not relevant to the present proceedings. By referring to the judgment of the Division Bench of this Court in *Haw Par Bros. International v. Tiger Balm Co. (P) Ltd. and Others*, MANU/TN/0526/1995, he contended that in the absence of evidence of transborder reputation, King Point cannot rely on its global reputation to seek rectification or to defend itself in an



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action for infringement and passing off in India. In this regard, by referring to questions and answer Nos.141 to 143 of PW1, he pointed out that PW1 admitted that no advertisements had been filed by King Point to establish its reputation in India.

17. Mr.Satish Parasaran, learned senior counsel, in rejoinder, referred to the invoices of Maarg and pointed out that such invoices lack credibility and that the originals were not filed. He also pointed out that the PIN code mentioned therein is erroneous. By referring to King Point's invoice at page 613 of Volume-III (Ex.P11 series), learned senior counsel submitted that the said invoice contains the date as per the Chinese/Taiwanese calendar and that the corresponding year in India would be 1996. He further submitted that the invoice pertains to "Steel Blind Rivets" under the trade mark "PTA". By referring to the invoice dated 17th March, 2004 at page 713 of Volume - III (Ex.P11 series), learned senior counsel submitted that the said



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document refers to PTA head marked screws.

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18. He proceeded to deal with case law. On failure to produce originals by Maarg, he relied on the judgment of the Division Bench of this Court in *Ashique Exports (P) Ltd. v. Suresh K.K. and Others*, 2023 SCC OnLine Mad 4033, particularly paragraphs 6 and 12 thereof. With regard to delay by Maarg in instituting the suit, he relied upon the judgment in *Cluett Peabody & Coy. Inc. v. McIntyre Hogg Marsh & Coy. Ltd.* [1958] 14 RPC 335. To substantiate the contention that Maarg's adoption and use of the trade mark PTA was fraudulent, he relied on the classic dictum of Lord Herschell in *Frank Reddaway and Frank Reedaway & Co., Limited v. George Banham and George Banham & Co., Limited*, (1896) AC 199(HL).

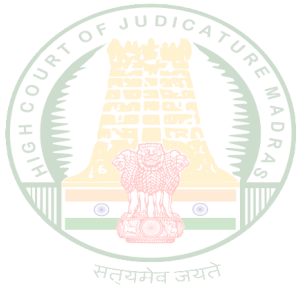
19. In response to the preliminary objection on the ground of lack of authority, learned senior counsel submitted that it is a curable defect. He further submitted that the President of King



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Point, Taiwan, is ready and willing to appear through video conferencing mode to ratify the institution and prosecution of the suit and to take any other measures in such regard. On this issue, he also referred to the judgment of the Delhi High Court in *Kabushiki Kaisha Toshiba v. Toshiba Appliances Co.* 2024 SCC OnLine Del 5594, particularly paragraph 59 thereof, regarding authorizing an individual to represent a company by board resolution, power of attorney or to ratify such actions subsequently. He also relied on the judgment of the Hon'ble Supreme Court in *United Bank of India v. Naresh Kumar and Others*, (1996) 6 SCC 660 ('*United Bank of India*') for the proposition that there can be express or implied ratification of the execution of pleadings on behalf of a company and that substantive rights should not be allowed to be defeated on technical grounds.

Discussion, analysis and conclusion



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20. King Point filed the written statement in February 2020

through Mr. Abhishek Jain by relying on power of attorney executed in April 2019 (Ex.P1) by Mr. Huangwen Pin on behalf of King Point. On perusal of the pleadings in the suit, it is evident that Maarg did not apply for, obtain permission and file a reply statement. Consequently, Maarg has not pleaded in the suit that Mr.Abhishek Jain was not duly authorized to depose in the suit or to defend the suit on behalf of King Point. Similarly, in the counter statement of Maarg to the rectification petition, the authority of Mr.Yusuf Unjawala, the authorized signatory, was not assailed. The preliminary objections therein are limited to stating that King Point is not a person aggrieved and further stating that documents in a foreign language were filed. Consequently, King Point did not have the opportunity to respond to such allegation, including by exhibiting additional documents. No issue was framed in this regard because of the lack of pleadings. After this objection was raised, albeit without



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exhibiting the same, King Point submitted a ratification dated 15th July 2025 from its board of directors in relation to the execution of pleadings and adducing of evidence by Mr. Abhishek Jain. The contention in course of final arguments to the effect that the rectification petition was not duly instituted and that Mr.Abhishek Jain was not duly authorized to depose or defend the suit should be examined by bearing in mind the above context.

21. In paragraph 10 of the judgment in *United Bank of India*, the Hon'ble Supreme Court held as under:

“It cannot be disputed that a company like the appellant can sue and be sued in its own name. Under Order 6 Rule 14 of the Code of Civil Procedure a pleading is required to be signed by the party and its pleader, if any. As a company is a juristic entity it is obvious that some person has to sign the pleadings on behalf of the company.



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Order 29 Rule 1 of the Code of Civil Procedure, therefore, provides that in a suit by or against a corporation the Secretary or any Director or other Principal Officer of the corporation who is able to depose to the facts of the case might sign and verify on behalf of the company. Reading Order 6 Rule 14 together with Order 29 Rule 1 of the Code of Civil Procedure it would appear that even in the absence of any formal letter of authority or power of attorney having been executed a person referred to in Rule 1 of Order 29 can, by virtue of the office which he holds, sign and verify the pleadings on behalf of the corporation. In addition thereto and dehors Order 29 Rule 1 of the Code of Civil Procedure, as a company is a juristic entity, it can duly authorise any person to sign the plaint or the written statement on its behalf and this would be regarded as sufficient compliance with the provisions of Order 6 Rule 14 of the Code of Civil Procedure. A person may be expressly authorised to sign



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the pleadings on behalf of the company, for example by the Board of Directors passing a resolution to that effect or by a power of attorney being executed in favour of any individual. In absence thereof and in cases where pleadings have been signed by one of its officers a corporation can ratify the said action of its officer in signing the pleadings. Such ratification can be express or implied. The court can, on the basis of the evidence on record, and after taking all the circumstances of the case, specially with regard to the conduct of the trial, come to the conclusion that the corporation had ratified the act of signing of the pleading by its officer."

Thereafter, in paragraph 11, the Court held that, even at the appellate stage, the plaintiff could have been called upon to produce the proper power of attorney if the Court was of the view that ratification could not be implied. In effect, the Court concluded that injustice should not be caused on such technical



grounds.

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22. As noticed earlier, Mr.Abhishek Jain has verified the written statement by asserting that he is the constituted attorney and authorized signatory of the defendant. Similar assertions are made in the proof affidavit of Mr.Abhishek Jain, which was affirmed on 28th November, 2023. In response to the objection raised by Maarg, the ratification by the board of directors of King Point has also been provided. In course of the cross-examination of PW1, the following questions were put to PW1:

“Q1:Are you an employee of the petitioner company?

A: I am working with the company.

Q2: What position you are working in petitioner company?

A: I am the dealer for the Tamilnadu region.

Q3: From when onwards you are the dealer of the petitioner company?

A: From 2014 onwards.



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Q4: What is the exact date when you became the dealer of the petitioner company?

A: I do not remember the date.

Q5: What is the name of your concern?

A: AK associates, proprietary concern.

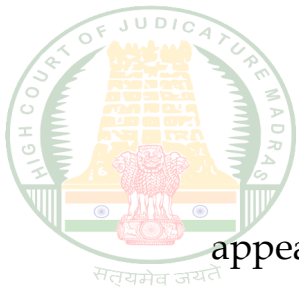
Q6: Have you entered into any agreement with the petitioner company for dealership in Tamilnadu?

A: I do not remember.

Q7: Have you filed any document pertaining to your dealership?

A: No.

23. From the answers of PW1, it appears that he had worked with King Point as a dealer in the Tamil Nadu region, but does not remember whether any agreement was executed in relation to such dealership. PW1 was, however, asked if he has been authorised by PATTA International and Pro-Bin International and he replied in the negative (question and answers 64 and 66). Apart from the above questions, it does not



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appear that any other questions were put to PW1 regarding his relationship with King Point. Significantly, no direct question or suggestion was put to PW1 challenging his authority to file the written statement or depose on behalf of King Point. In these facts and circumstances, I reject the contention that the pleadings and deposition should be disregarded on the ground of lack of authorization.

24. The other contention, in this regard, was that PW1 is only entitled to depose with regard to acts performed by him as an agent. Such contention was advanced by relying on the judgments of the Hon'ble Supreme Court in *Janki Vashdeo Bhojwani* and *Manisha Mahendra Gala*. In both the said judgments, the proposition laid down by the Hon'ble Supreme Court was that the agent can only depose in relation to facts within his personal knowledge. Paragraph 29 of *Manisha Mahendra Gala* is as under:



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“ 29. It is, therefore, settled in law that Power of Attorney holder can only depose about the facts within his personal knowledge and not about those facts which are not within his knowledge or are within the personal knowledge of the person who he represents or about the facts that may have transpired much before he entered the scene. The aforesaid Power of Attorney holder PW-1 had clearly deposed that he is giving evidence on behalf of Plaintiff Nos. 2 to 4 i.e. the Gala's. He was not having any authority to act as the Power of Attorney of the Gala's at the time his statement was recorded. He was granted Power of Attorney subsequently as submitted and accepted by the parties. Therefore, his evidence is completely meaningless to establish that Gala's have acquired or perfected any easementary right over the disputed rasta in 1994 when the suit was instituted.”

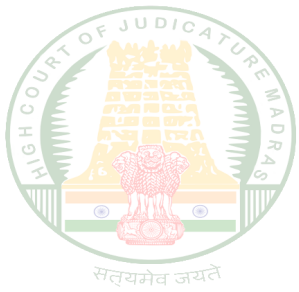
25. As is noticeable from the above extract, on account of



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lack of knowledge, the Court concluded that the agent could not depose with regard to the easementary right of the principal in respect of the disputed land. There can be no quarrel with the principle that the witness can only speak of facts of which he is aware. By contrast to the above mentioned judgments, this is a commercial suit where, typically, documentary evidence is paramount. Therefore, to the extent that the documents speak, the lack of in-depth knowledge of the witness would not be particularly material, whereas, with regard to matters not contained in such document, the witness would not be in a position to provide supplementary information. In the factual context of this case, this aspect should be borne in mind while determining the materiality and weight of the oral evidence of PW1. The evidence cannot, however, be eschewed for this reason.

Issue Nos. 1-5:



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26. The primary issues in these proceedings are with regard to prior adoption and use of the trade mark 'PTA', including whether the adoption and use by Maarg is dishonest and originated from the past, direct or indirect, relationship with King Point. Issue Nos.4 and 5 are consequential and relate to whether Maarg's registration of the trade mark PTA was in contravention of the Trade Marks Act, 1999 and whether the use of the mark PTA by Maarg is likely to cause confusion in the market.

27. King Point asserts that it adopted and used the trade marks PATTA and PTA prior to Maarg. At paragraph 5 of the written statement in the suit, in relevant part, King Point stated as under:

"5. The defendant coined and conceived the trade mark PATTA in 1987



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and trade mark PTA in 1990 internationally.

By virtue of long and continuous use of the marks PATTA and PTA internationally and in India, both the marks earned great reputation in the trade and the general public and the traders associate the mark only with the Defendant by virtue of high quality produced and sold by the Defendant all over the world including India...."

The pleading in the rectification petition is broadly on the same lines, and reference may be made to paragraph 5 thereof.

28. King Point also asserted that Maarg failed to disclose material facts regarding the past relationship with King Point through a related entity called Amkar International. At paragraph 16 of the written statement, in relevant part, it was stated as under:

"16.The Defendant failed to disclose the fact that they were the ex-distributors for the



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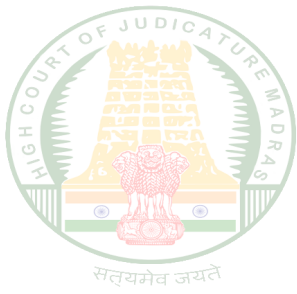
Defendant's products in India and they were also doing business through M/s. Amkar International which is related to Plaintiff's company. The said Amkar International, Chennai imported PTA and PATTA products from the defendants, and therefore the claim of the Plaintiff regarding the coining of the mark 'PTA' is absolutely false...."

Similar statements were made in the rectification petition.

Paragraph 21 thereof may be referred to in this regard.

29. Maarg, on the other hand, asserts that it coined, conceived and adopted the trade mark PTA in the year 1997 and designed the logo in the year 2001. In paragraphs 5 and 6 of the plaint, in relevant part, it is stated as follows:

"5. The Plaintiff states that it originally coined, conceived and adopted the Trade Mark PTA for the said goods in the year 1997 and subsequently designed the



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Logo for the said mark 'PTA' in the year 2001...."

"6. The Plaintiff states the Trade Mark PTA has been in use since 1997 and the Logo since the year 2001 on the said goods openly, continuously, substantially and extensively...."

30. Before examining evidence of use, it is relevant to examine whether King Point has established that the adoption and use of the trade mark PTA by Maarg was dishonest in view of such adoption originating from a past business relationship through Valmax or Amkar International or for any other reasons. King Point filed sales invoices and emails collectively as Ex.P7. Ex.P7 includes the emails issued in March 2005 by Riaz Ahmed. In one of the emails at page 346 of Volume - II (part of Ex.P7) issued from the email Id valmax@touchtelindia.net to Rita of PATTA International in January 2005, Riaz Ahmed stated, in



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relevant part, as under:

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"PLEASE BE NOTED THAT M/S. MAARG INDIA IS OUR OWN SISTER COMPANY. IT IS OUR OWN GROUP SELLING SCREWS. THEY ARE TELLING US THAT SOME OTHER COMPANY IS SELLING DRYWALL SCREWS AT LOW RATES."

In another mail at page 347 of Volume – II (part of Ex.P7) sent from the email ID amkargroup@touchtelindia.net, in relevant part, Riaz Ahmed stated as under:

*".... REG: DRYWALL SCREWS:-
RITA, WITH REGARD TO THIS ITEM, OUR SISTER CONCERN M/S.MAARG INDIA HAS BEEN COMPLAINING US THAT OUR COMPETITORS ARE SELLING YOUR DRYWALL SCREWS ON A VERY LOW MARGIN RATES WHEREIN WE CANNOT COMPETE THEM...."*



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By an email at page 345 of Volume – II, Riaz Ahmed also informed Rita that the constitution of the company had changed from Amkar International to Valmax.

31. It is profitable to next consider the oral evidence. RW1 was specifically asked about ownership of the trade mark PATTA, whether and from which year Maarg purchased PATTA brand products of King Point for resale and about the application by Maarg for registration of the trade mark PATTA.

The relevant questions and answers are as under:

“Q4: Is it correct to state that the petitioner owns the trademark PATTA?

A: Yes.

Q5: Does your firm acknowledge that the petitioner is the registered trademark owner of the mark PATTA?

A: Yes.

Q: Does your firm have any objection over the use of the mark PATTA by the



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petitioner?

A: No objection.

Q37: From the year 2001 till 2018, did your firm continue to resell third party brands for screws?

A: At times we did not have stocks, we used to buy from local vendors and sell it.

Q38: Did your firm purchase PATTA brand products of the petitioner and resell it?

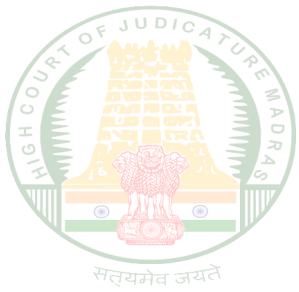
A: Yes.

Q39: Can you tell this Court from which year you are dealing with PATTA brand of screws?

A: I do not remember

Q40: Why did your firm apply for the trademark PATTA in class 6 in the trademark registry?

A: It was an unintentional error that happened. I do not want to blame anybody. When it came to our knowledge we have immediately withdrawn."



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32. In order to establish that Valmax and Amkar

International were sister concerns of Maarg, several questions were put to RW1. The said questions and answers are as under:

“Q27: Do you know who is Riaz Ahmed?

A: I do not know Riaz Ahmed.

Q28: Do you know a firm by name Valmax?

*A: It was long time back. I do not remember.
But it was a one time transaction.*

*Q29: Can you tell what kind of transaction
you had with Valmax?*

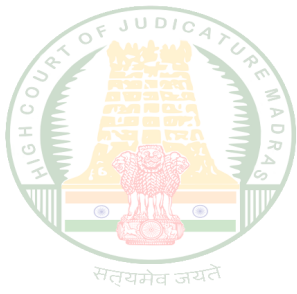
*A: I do not remember. We have a lot of
transaction with small vendors.*

*Q53: (Ex.R7 is shown to the witness) Please
see balance sheet as on 31.03.2009-out of the
list of sundry creditors to which entity do
you owe maximum money to?*

A: It is Valmax.

*Q54: (Ex.R7 is shown to the witness) What
is the amount due to Valmax as on
31.03.2009?*

A: Rs.14,83,931/-.



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Q55: (Ex.R7 is shown to the witness) Please see balance sheet as on 31.3.2010- out of the list of sundry creditors to which entity do you owe maximum money to?

A: Valmax.

Q56: (Ex.R7 is shown to the witness) What is the amount due to Valmax as on 31.03.2010?

A: Rs.29,31,544/-.

Q57: I put it to you that when the pending amount due to Valmax is Rs.14,83,931/- in 2008-2009 and Rs.29,31,544/- in 2009-2010, the quantum of business and sale with Valmax is substantial.

A:Yes.

Q58: I put it to you that since Valmax is a reseller of PATTA and PTA products of the petitioner, you had purchased the same from Valmax for sale in the market.

A: No."

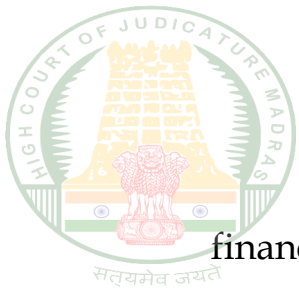
33. As noticed earlier, in more than one email from Riaz Ahmed of Amkar International/Valmax to King Point in the



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year 2005, he stated that Maarg is a sister concern and that Maarg had informed that competitors are selling drywall screws of King Point at a much lower price. RW1 stated that he does not know Riaz Ahmed and that he does not remember having entered into transactions with Valmax. Later, when confronted with Ex.R7, which is the balance sheet of Maarg, he admitted that Maarg owed Valmax Rs.14,83,931/- as on 31st March, 2009 and Rs.29,31,544/- as on 31st March, 2010. He also admitted that Valmax was the largest sundry creditor of Maarg as on both 31st March 2009 and 31st March, 2010.

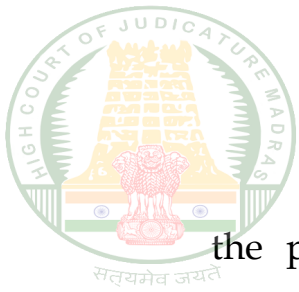
34. The inferences that flow from Ex.P7 and the oral evidence of RW1 may be summarised as follows. Maarg purchased goods bearing the trade mark PATTA from King Point for re-sale, but the period of purchase is not discernible. Amkar International/Valmax had purchased hardware products from PATTA International and Pro-Bin International in the



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financial year 2004-05 for resale. The invoice dated 13th March 2004 issued by Pro-Bin International to Amkar International at page 349 of Volume – II (Ex.P-7 series) describes the goods as “PTA” head marked self-drilling screws. The invoice dated 13th October 2004 issued by PATTA International to Amkar International at page 348 of Volume – II (Ex.P-7 series) describes the goods as “PATTA” self-drilling screws. Amkar International/Valmax were entities related to Maarg and Maarg had extensive dealings with them especially in financial years 2008-09 and 2009-10. Whether the purchases by Maarg from Valmax/Amkar International included goods bearing the trade mark PTA cannot be confirmed from the evidence, but there is reasonable indication in the emails that it included King Point's hardware products.

35. RW1 was asked whether PTA was ever used as part of



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the partnership name of Maarg. The relevant question and answer is as follows:

“Q3: Has your partnership firm Maarg(India) registered as 621/1997 before registrar of Firms ever used PTA as part of your partnership name?

A: No.”

The registration certificate (Ex.R21) issued on 28th November 1997 corroborates this statement. RW1 was also asked questions relating to adoption and use of the mark PTA. Questions and answers 7 to 13 and 26 are set out below:

“Q7: Which year your firm adopted the mark PTA?

A: In 2001. Actually in 1997 only but the use started from 2001.

Q8: I put it to you that from 1997 to 2001 your firm did not use PTA.

A: Yes.

Q9: Has your firm filed any document to



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prove the launch of the mark PTA?

A: No.

Q10: Do you know who is Unique Industries?

A: He was the first manufacturer who made the products for our brand.

Q11: (Ex.R3 is shown to the witness) When this agreement was signed?

A: Signed in 1999

Q12: Whether Ex.R3 was altered in any manner after executing in 1999?

A: No.

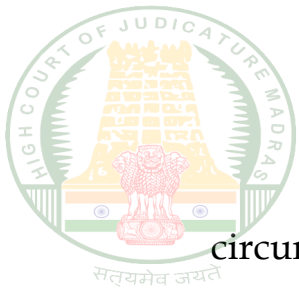
Q13: Do you know giving false evidence and false information under oath is punishable offense?

A: Yes.

Q26: Have you filed any evidence showing the brand PTA mentioned on your carton box before this proceedings? (Ex.R1 to Ex.R20 are shown to the witness)

A: No."

36. In response to question no.8, RW1 admitted that the trade mark PTA was not used by Maarg until 2001. In those



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circumstances, at a minimum, doubts arise with regard to the authenticity of the partnership deeds dated 2nd September 1997 (Exs.R1 and R21), wherein there is a reference to PTA in paragraph 2 thereof. This doubt is enhanced by the existence of two partnership deeds of the same date particularly in the absence of a certified copy from the Registrar of Firms. As noticed earlier, RW1 also admitted in response to question no.38 that Maarg purchased PATTA brand products of the petitioner for re-sale. Although RW1 could not remember the period of purchase, Ex. P-11 series reveals that Valmax/Amkar International bought self-driving screws either bearing the PATTA brand or head marked PTA from PATTA International and Pro-Bin International, respectively, in financial year 2004-05. The pleading in the rectification petition that these are related entities has not been expressly denied in the counter statement. Thus, the pleading and documentary evidence support the inference that these are or at least were related entities of Maarg.



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37. In order to establish *bona fide* and prior adoption, Maarg relied on Ex.R3, which is an agreement with Unique Industries for manufacture of PTA branded screws. King Point endeavoured to establish that this document was fabricated by pointing out that the rubber stamp on this document contains a telephone number (044-2533 1928) that did not exist in 1999. Maarg explained this anomaly by stating that the rubber stamp was affixed later when the document was filed before the Delhi High Court. At a minimum, there is reason to doubt the credibility of Ex.R3. Therefore, it becomes necessary to examine other evidence of adoption and use by both parties.

38. King Point also filed trade mark registration certificates for the trade mark PATTA collectively as Ex.P3. On perusal thereof, it appears that such registrations were granted by



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multiple jurisdictions, including Taiwan, Malaysia, Singapore, United Arab Emirates, Republic of the Philippines, Pakistan, etc.

Worldwide registration certificates for the trade mark PTA were also filed by King Point collectively as Ex.P4. Such registrations have been granted by jurisdictions such as Taiwan, Indonesia, United Arab Emirates, etc. The earliest of these registrations appears to have been granted with effect from 16th September, 1990 in the name of Huang Wen-Pin (Ex.P30 at page 2044 of Volume- V).

39. As evidence of use of the trade marks PATTA and PTA, King Point also exhibited further invoices collectively as Ex.P11. Several of the invoices in Ex.P11 appear to relate to the supply of hardware items to entities in India. In relation to the invoice at page 613 of Volume-III, which is dated in accordance with the Taiwanese/Chinese calendar, Mr. Satish Parasaran submitted that it corresponds to the year 1996 in the English calendar. The



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invoice appears to relate to the supply of Stainless Steel Blind Rivets and appears to have been issued by Tzun Yuh Enterprise Co. Limited as per Proforma Invoice No. PTA 961115. The word PATTA is also noticeable thereon. Another invoice issued by Tzun Yuh Enterprise Co. Limited in 1996 is included in Ex.P11 series at page 611 as Proforma Invoice No. PTA 961010-1.

40. Several other invoices and packing lists for PTA head marked hardware items are found in Ex.P11 series. By way of illustration, reference may be made to invoices dated 17th March 2004 and 25th August 2004 to Simco Fasteners, Mumbai (pages 713 and 773 of Volume-III); invoice dated 13th October 2004 to Amkar International (page 788 of Volume-III); packing list dated 10th November 2004 to Mumbai Engineering Products (page 804 of Volume-III); invoice dated 26th January 2005 to Ram Sarup Aggarwal and Sons (page 821 of Volume-III); and invoice dated 25th February 2005 to Yen Fasteners (page 834 of Volume-III).



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Most of these invoices and packing lists were issued by PATTA International and Pro-Bin International. The authorisation from King Point to PATTA International and Pro-Bin International to use the trade marks PATTA and PTA is exhibited as Ex.P6.

41. As against such evidence, Maarg has filed sales invoices under Ex.R8. Ex.R8 includes invoice dated 12th May, 2001 for supply of drywall screws under the brand PTA and several other invoices issued between 2001 and 2007 by Maarg. Printed on each invoice is the description “Dealers: All types of Anchor expansion fasteners, “PTA” self-drilling, Drywall/Star screws/chip board screws, drill machines, bits and all false-ceiling allied items”. Other invoices issued between 2008-2010 by other entities to Maarg are also part of Ex.R8 series. King Point alleged that these invoices are fabricated. The agreed position is that the originals of these invoices were not filed. Equally, King Point did not file original invoices. The admissibility,

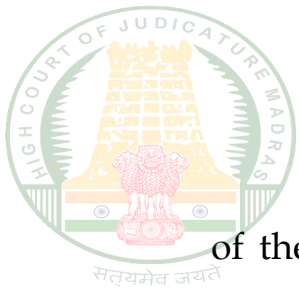


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materiality, weight and implications of these documents warrant consideration next.

42. The invoices filed by Maarg disclose that screws and other hardware items were sold by Maarg from 2001 and that some of these invoices contain the letters “PTA”. All these invoices describe Maarg as a dealer of PTA self-drilling and other screws. If Maarg considered itself as the owner of the trade mark PTA, it is difficult to understand the reason for describing the firm as a dealer of PTA self-drilling screws. Therefore, I conclude that these invoices do not establish that Maarg is the proprietor of the trade mark PTA. In the absence of reliable evidence of fabrication, I conclude, however, that King Point has failed to prove that the invoices of Maarg are fabricated.

43. Before drawing conclusions, it is also necessary to refer to the applications filed by King Point and Maarg for registration



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of the trade marks PATTA and PTA in India. King Point filed multiple applications for registration of the word and device mark PATTA and obtained such registrations. The relevant documents are exhibited as Exs. P-12-P18. King Point also filed an application on 29th October, 2009 for registration of the trade mark PTA by asserting use since December 2002. The record shows that such application is pending adjudication in view of the opposition by Maarg. Maarg filed applications for registration of the trade mark PATTA under Trade Mark Application Nos.1632632 and 1670759 (Exs.P16 and P17). These applications were withdrawn by Maarg subsequently. Maarg also filed an application dated 17th April 2008 for registration of the trade mark PTA under trade mark application No.1677459 (Exs.R4 and R5) by asserting use since 1st January, 2001 and such application was allowed. As a consequence, Maarg became the registered proprietor of the trade mark PTA with effect from 17th April, 2008.



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44. On careful consideration of the evidence adduced by the parties, I conclude that King Point has established that it has used the trade marks PATTA and PTA both internationally and in India. As regards use of the trade mark PATTA, it is conceded by Maarg that King Point is the proprietor of the said trade mark both globally and in India. Ex.P30 reveals that King Point registered the trade mark PTA with effect from 16th September 1990 in Taiwan. Thereafter, multiple registrations for the mark PTA have been obtained globally. Ex.P11 contains significant evidence of sale of hardware items, including goods bearing the trade mark PTA, both outside India and by exporting the same to purchasers in India. In effect, there is evidence of spill-over of King Point's reputation and goodwill in India. On account thereof, King Point is entitled to rely on its global reputation and the territoriality principle enunciated in *Toyota Jidosha Kabushiki Kaisha v. Prius Auto Industries Limited*, MANU/SC/1619/2017, will



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not preclude reliance thereon.

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45. As regards Maarg, while the invoices indicate that Maarg was a dealer of PTA self-drilling and other screws since 2001, for reasons set out earlier, the said invoices do not establish Maarg's proprietorship of the trade mark. Both parties are in the same line of business and Maarg admittedly purchased PATTA branded hardware items, directly or indirectly, from King Point for resale. Ex.P-7 read with the oral evidence leads to the conclusion that two entities related to Maarg purchased goods bearing the trade marks PATTA and PTA from PATTA International and Pro-Bin International, which are group entities of King Point (see Ex. P6).

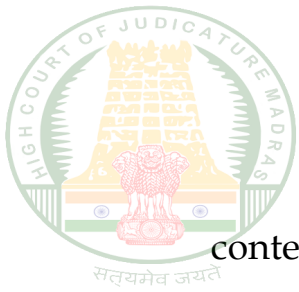
46. Considering and evaluating the evidence carefully, I conclude that the adoption and use by Maarg of the trade mark PTA was not *bona fide* for multiple reasons. King Point is the proprietor of the trade mark and applied the mark PTA to



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hardware items sold not only outside India but also by export into India through several entities, including Amkar International/Valmax, which appear to be sister concerns of Maarg. Being in the same line of business and having admitted to purchasing hardware items under the trade mark PATTA indirectly from King Point, it strains credulity that Maarg was unaware of the adoption and use of the trade mark PTA by King Point both globally and in India. The fact that Maarg applied for registration of the trade mark PATTA and later withdrew the applications lends additional weight to the allegation of dishonesty. The explanation that the trade mark PTA was adopted in 1997 by Maarg as an acronym for 'Praise the Almighty' is tenuous and unconvincing in the overall facts and circumstances.

47. Taking all of the above into account, I hold that the adoption of the mark was not *bona fide* and that the registration of the trade mark PTA by Maarg was also not valid. Because the



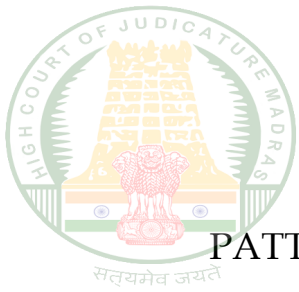
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contesting parties are in the same line of business, the continuance of the trade mark PTA on the register is likely to cause confusion in the market, including by way of association. Issue Nos.1-5 are disposed of on these terms.

Issue Nos. 6, 7, 8 and 9:

48. Issue Nos. 6 and 7 relate to whether King Point infringed the registered trade mark of Maarg and passed off its products as those of Maarg. Whether Maarg is entitled to the relief claimed in the suit and damages of Rs. 50,00,000/- are Issue Nos.8 and 9, respectively. Although the findings on issues 1-5 are sufficient to warrant dismissal of the suit, a brief discussion of the suit filed before the Delhi High Court is in order before disposing of these issues.

49. The plaint and related papers in the suit filed by King Point before the Delhi High Court were exhibited collectively as Ex.P9. In the plaint, King Point asserted that the trade mark

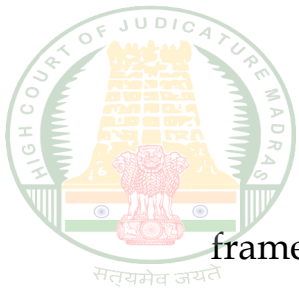


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PATTA was adopted in the year 1987 and the trade mark PTA in the year 1990, and that both the trade marks have been used openly, honestly and continuously since then. As regards use in India, it was stated that PTA is embossed on its goods and that such goods are being sold since the year 2002. Paragraph 16 of the plaint in the said suit, in relevant part, is as under:

“16. In India, the Plaintiff selling its goods under the Trademark PATTA and PTA since the year 2002 through its group companies i.e. PATTA International Limited and Pro-Bin International Limited....”

50. Significantly, the suit in New Delhi was filed not only against Maarg, represented by Mr. Ali Asgar, but also against Mr. Arif Ur Rehman, Trading as the Valmax Group, and M/s Yen Fasteners. Ex.P9 does not appear to contain the written statement of Maarg. From order dated 18th April, 2017 dismissing the suit for default, it appears that issues were

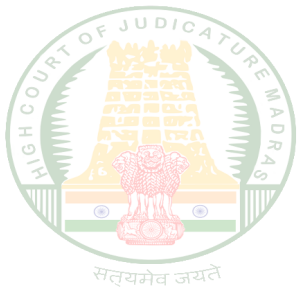


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framed in the suit on 27th October, 2016. After recording that the plaintiff therein did not file the list of witnesses or evidence by way of affidavits even within the extended time, the suit was dismissed for non-prosecution and the application for restoration was subsequently dismissed by order dated 13th December, 2017.

51. Interestingly, in spite of a suit being filed by King Point in the year 2011 asserting that it has used the trade mark PTA in India since the year 2002, Maarg did not file the suit before this Court until 2018. In paragraph 14 of the plaint, Maarg states that it came to know about King Point's use of the device mark PATTA only in December 2017. RW1, however, admitted that Maarg was aware of King Point's use of the trade marks PATTA and PTA in 2011. Questions 67 and 68 and the answers thereto are set out below:

“ Q67: Is it correct to state that in the year



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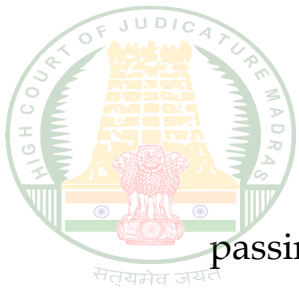
2011, you were put to knowledge of the petitioner's use of the trademark PATTA and PTA in the suit filed by the petitioner against you before the Hon'ble Delhi High Court in CS (OS) 1409/2011?

A: Yes

Q68: Is it correct to state that from 2011 until filing of the present suit you have taken no action against the petitioner?

A: I have not initiated any action.

Given that it is a suit for alleged trade mark infringement and passing off in relation to a trade mark that King Point continued to use until the suit was filed, the consequence would not be that the suit is barred by limitation. Nonetheless, the delay in filing the present suit is a material fact and viewed in conjunction with the findings on issues 1-5 leads to the conclusion that Maarg has failed to establish that it is the proprietor of the trade mark PTA. Besides, King Point is the prior user. Consequently, Maarg is not entitled to the relief claimed either in respect of infringement or



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passing off.

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Issue Nos. 10 and 11:

52. Issue No.10 relates to whether the impugned mark is liable to be expunged from the Register of Trade Marks. In view of the conclusion that King Point and not Maarg is the proprietor of the trade mark PTA and the further conclusion that the existence of this mark on the register is likely to lead to conclusion, I hold that the entry relating thereto was made in the Register of Trade Marks without sufficient cause. Consequently, such entry is liable to be expunged from the register. Because the entry was made on 2nd February 2011 with effect from 17th April 2008, the direction to expunge shall take effect after 30 days from the date of receipt of a copy of the judgment so as to provide some lead time to Maarg. As the successful party, King Point is also entitled to costs towards reasonable lawyer's fees and expenses. King Point also did not defend the suit diligently and



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an *ex parte* decree was issued and later set aside. Considering all these aspects, in the aggregate, Maarg is liable to pay a sum of Rs.5,00,000 as consolidated costs for both proceedings.

53. In the result,

i. C.S.No.163 of 2018 is dismissed.

ii. (T)OP(TM)No.32 of 2023 is allowed by directing the Registrar of Trade Marks to expunge the entry relating to Trade mark No.1677459 in class 6 from the Register of Trade Marks. This direction shall take effect 30 days from the date of receipt of a copy of this judgment.

iii. Maarg (India) is directed to pay a sum of Rs.5,00,000/- as costs to King Point Enterprises Limited towards fees and expenses in both proceedings.

09.10.2025



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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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King Point's witness:

P.W.1 - Mr.Abhishek Jain

Maarg's witness:

R.W.1 - Mr.Ali Asgar

Documents exhibited by King Point:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	The photocopy of the power of attorney dated 19.06.2019 (compared with original)
Ex.P2	The printout of the trade mark applications for the trade mark PTA filed by the petitioner in India dated 29.10.2009.
Ex.P3	the photocopies (series) of the World wide trade mark registration certificates for the mark PATTA of the



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<i>Exhibits</i>	<i>Documents</i>
	petitioner (since the other side/1st respondent/plaintiff counsel has given consent to mark photocopies, photocopies are marked. Further witness is ready to produce the originals whenever it is required)
Ex.P4	The photocopies (series) of the World wide registration certificates for the mark PTA of the petitioner (since the other side/1st respondent/plaintiff counsel has given consent to mark photocopies, photocopies are marked. Further witness is ready to produce the originals whenever it is required)
Ex.P5	The printout of the specimen of the packaging of the petitioner.
Ex.P6	The printout of the authorization letter in favour of PATTA international limited and Pro-Bin international Ltd to conduct the business worldwide including India on behalf of the petitioner dated 03.01.2003.
Ex.P7	The printout of the sales invoices raised by the petitioner on the 1st respondent's concern and other documents evidencing the same.
Ex.P8	The printout of the packaging material used by the 1st respondent
Ex.P9	The photocopy of the suit filed by the petitioner along with under passed by the Hon'ble Delhi High Court dated 31.05.2011 against the 1st respondent and subsequent orders dated 30.05.2011 (since the other side /1st respondent/plaintiff counsel has given consent to mark photocopies, photocopies are marked. Further witness is ready to produce the originals whenever it is required)
Ex.P10	The copy of the petitioner's product brochures (As per orders in A No. 2940/2021, copy is marked as secondary evidence)



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<i>Exhibits</i>	<i>Documents</i>
Ex.P11	printout of the invoice proving export of the petitioner's products under the marks "PATTA" and PTA to various countries including India (As per orders in A. No. 2940/2021, copy is marked as secondary evidence)
Ex.P12	The printout of the extract from trade Marks Registry website pertaining to petitioner's Trademark 'PATTA' under no.1318305 in class 06.
Ex.P13	The printout of the extract from Trade Marks Registry website pertaining to petitioner's Trademark 'PATTA' under nos.2173892 in class 6.
Ex.P14	The printout of the extract from Trade Marks Registry website pertaining to petitioner's Trademark 'PATTA' under nos.2787441 in class 6.
Ex.P15	The printout of the extract from Trade Marks Registry website pertaining to petitioner's Trademark 'PATTA' under nos. 2787442 in class 6.
Ex.P16	The printout of the extract from Trade Marks Registry website pertaining to petitioner's Trademark 'PATTA' under nos. 1632632 in class 6.
Ex.P17	The the printout of the extract from Trade Marks Registry website pertaining to petitioner's Trademark 'PATTA' under nos 1670759 in class 6.
Ex.P18	The printout of the extract from Trade Marks Registry website pertaining to Trademark opposition proceeding filed by the petition against respondent's trademark application under nos. 3856039 in class 6 for the mark 'PTA'
Ex.P19	The photocopy of the public notice Trademark caution notice (since the other side 1st respondent/plaintiff counsel has given consent to mark photocopies, photocony is marked)



<i>Exhibits</i>	<i>Documents</i>
Ex.P20	The printout of the true extracts from the petitioner's website www.patta.com
Ex.P21	The section 65B affidavit filed for Ex.P10, Ex.P11 and Ex.P20.
Ex.P22	The computer generated search report from Trademark registry website showing the petitioner's registered marks.
Ex.P23	The section 65B affidavit filed for Ex.P12 to Ex.P18.
Ex.P24	The section 65B affidavit filed for Exs P2, P5, P6, P7 and P8.
Ex.P25	The trade mark certificates for use in Legal proceedings pertaining to application no.1318305 dated 08.02.2024.
Ex.P26	The trade mark certificates for use in Legal proceedings pertaining to application no: 2173892 dated 08.02.2004.
Ex.P27	The trade mark certificates for use in Legal proceedings pertaining to application no.2787441 dated 08.02.2024
Ex.P28	The trade mark certificates for use in Legal proceedings pertaining to application no.2787442 dated 08.02.2024.
Ex.P29	The photocopy of the trade mark registration certificates for the mark PATTA of the petitioner in Taiwan. (The counsel for the 1st respondent in (T)OP(TM) 32/2023 objects on the ground that it is a photocopy.)
Ex.P30	The photocopy of the trade mark registration certificates for the mark PTA of the petitioner in Taiwan. (The counsel for the 1 st respondent in (T)OP(TM) 32/2023 objects on the ground that it is a photocopy.)

Documents exhibited by Maarg:

<i>Exhibits</i>	<i>Documents</i>
Ex.R1	The photocopy of the Maarg (India)'s Deed of partnership



Exhibits	Documents
	dated 02.09.1997 and acknowledgement of Registration of Firm on Form C by Registrar of Firm dated 28.11.1997. (Original is produced for Registrar of Firm on Form C, compared and returned to the respondent counsel.) (The counsel for the petitioner objected to marking of the photocopy of the deed of partnership dated 02.09.1997.)
Ex.R2	The photocopy of the trademark 'PTA'. (The counsel for the petitioner objected to marking of the photocopy and it is not a valid document.)
Ex.R3	The photocopy of the memorandum of agreement entered by Maarg (India) with M/s. Unique Industries, Punjab dated 21.11.1999. (Original is produced, compared and returned to the respondent counsel.)
Ex.R4	the photocopy of the Registration Certificate dated 02.02.2011. (Original is produced, compared and returned to the respondent counsel.)
Ex.R5	The photocopy of the certificate for use in Legal proceedings for the Trade mark application bearing number 1677459 dated 21.03.2011. (Original is produced, compared and returned to the respondent counsel.)
Ex.R6	The photocopy of the certificates of registration of Maarg (India) under General Sales Tax Act, Central Sales Act, Tamilnadu Value Added Tax dated 26.09.1997. (Original is produced, compared and returned to the respondent counsel.)
Ex.R7	The photocopy of the Sales Register Sales Tax Assessment Orders and Notice Income Tax Returns Closing Balance for the period 01.04.2003 to 31.03.2010. (The counsel for the petitioner objected to marking of the photocopy.)
Ex.R8	The photocopy of the sales invoices of Maarg (India) and invoices towards advertisement for the year 2001 to 2010. (The counsel for the petitioner objected to marking of the



<i>Exhibits</i>	<i>Documents</i>
	photocopy.)
Ex.R9	The printout of the extracts of webpages of www.patta.com.tw & www.taiwantrade.com.tw.
Ex.R10	The photocopy of the reply to the examination report in trade mark application bearing number 1878042 in class 6 dated 20.04.2011. (The counsel for the petitioner objected to marking of the photocopy.)
Ex.R11	The printout of the search report for the trade mark PTA from the official website of trade mark registry dated 06.02.2013.
Ex.R12	The photocopy of the reply to legal notice by representatives of Kanta Aggarwal dated 14.03.2011. (The counsel for the petitioner objected to marking of the photocopy)
Ex.R13	The photocopy of caveat petition dated 18.03.2011. (The counsel for the petitioner objected to marking of the photocopy.)
Ex.R14	The photocopy of the legal notice to Asian Hardware & Tools Co by King Point Enterprise dated 20.07.2011 and photocopies of various documents of King Point Enterprise, shown to be registered. (The counsel for the petitioner objected to marking of the photocopy.)
Ex.R15	The photocopy of the invoices of dealers of King Point Enterprise for the year 2010 to 2011. (The counsel for the petitioner objected to marking of the photocopy.)
Ex.R16	The photocopy of the written statement filed by Maarg (India) in CS (OS) No.1409/2011 before the Delhi High Court and photocopy of the appeal preferred by the respondent in Delhi High Court against the order in IA.No.9341/2011 in CS (OS) No.1409/2011. (The counsel for the petitioner objected to marking of the unsigned copy



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<i>Exhibits</i>	<i>Documents</i>
	of the written statement and appeal.)
Ex.R17	The original auditor certificate certifying the sales turnover dated 06.01.2018.
Ex.R18	The photocopy of the advertisements given by Maarg (India) in Media. (The counsel for the petitioner objected to marking of the photocopy.)
Ex.R19	The photocopy of the photographs of the infringing goods sold by King Point Enterprise and the embossing of the Trade Mark "PTA" in the said goods. (The counsel for the petitioner objected to marking of the photocopy.)
Ex.R20	The photocopy of the order passed by the Hon'ble High Court of Judicature in IA.No.9341/2011 dated 13.12.2017. (The counsel for the petitioner objected to marking of the photocopy)

09.10.2025

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SENTHILKUMAR RAMAMOORTHY J.

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The Registrar of Trade Marks,
Trademark Registry,
Anna Salai,
Chennai.

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Pre-delivery judgment made in
C.S.No.163 of 2018
&
(T)OP(TM) No. 32 of 2023

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