



CMA(TM)/11/2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 26.08.2025

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

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Berkadia Proprietary Holding LLC

Rep by its Authorized Representative Mr.Om Prakash,
Having at 323 Norristown Road, Suite 300, Ambler PA, 19002,
United States of America.

Also at. DLF Cyber City, Plot No. 129 to 132 9th Floor Block 2,
Gachibowli Village, Serlingampally Mandal,
Hyderabad, Telangana-500019

... Appellant

-VS-

The Registrar of Trade Marks

Trade Marks Registry, Intellectual Property Office Building,
G.S.T. Road, Guindy, Chennai 032 India

... Respondent

PRAYER: Civil Miscellaneous Appeal (Trade Marks) is filed under Section 91 of the Trade Marks Act, 1999, pleaded to set aside the Refusal Order dated 17.12.2024 passed in Subject Application No.2381187 in Class 36 by the Respondent, thereby accepting the Subject Application and directing the respondent to advertise the Subject Application in the Trade Marks Journal.



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WEB COPY For Appellant

: Mr.Navod Prasanan
for Mr.Himanshu Deora

For Respondent

: Mr.J.Madanagopal Rao, SPC

JUDGMENT

This appeal is directed against order dated 17.12.2024 rejecting Trade Mark Application No.2381187 for the registration of the trade mark “INVESTOR QUERY”. The above mentioned application was filed on 06.08.2012 on a “proposed-to-be-used” basis. By examination report dated 17.05.2013, the Registrar of Trade Marks raised the objection that the trade mark is devoid of distinctive character. By reply dated 17.11.2014, the appellant stated that the mark had acquired a distinctive character as a result of use. The impugned order was issued in the above facts and circumstances by reiterating that the trade mark is devoid of distinctive character.



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2. After endeavouring to establish that the mark is distinctive at the previous hearing on 14.08.2025, including by relying upon the judgment of the Delhi High Court in *Dubai Islamic Bank v. Union of India and another*, dated 04.12.2019 in W.P.(C).No.12749 of 2019, at today's hearing, learned counsel for the appellant has placed on record the request in Form TM-M for an amendment of the mark as “BERKADIA INVESTOR QUERY” instead of “INVESTOR QUERY”.

3. As a consequence of the above mentioned request for amendment, there is a material change in the nature of the mark sought to be registered. The Registrar of Trade Marks cannot be faulted for issuing the impugned order upon examining the original application relating to the mark INVESTOR QUERY. The proposed amendment is by addition of the element BERKADIA, which is also the first word in the name of the appellant.

4. By taking note of this material development, the order impugned herein is set aside and the matter is remanded for reconsideration. Such



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reconsideration shall be undertaken after accepting the request for amendment. After providing a reasonable opportunity to the appellant, a reasoned fresh order shall be issued within **three months** from the date of receipt of a copy of this order.

5. CMA(TM)/11/2025 is disposed on the above terms. No costs.

26.08.2025

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

The Registrar of Trade Marks
Trade Marks Registry, Intellectual Property Office Building,
G.S.T. Road, Guindy, Chennai 032 India



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SENTHILKUMAR RAMAMOORTHY,J

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