



W.P.(IPD) No.22 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 18.02.2025

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.(IPD) No.22 of 2024

Tractors and Farm Equipment Limited
Rep. By its authorised representative C.P.Sounderarajan
Having its Registered Office at
No.861, Annasalai,
Chennai 600 002.
Also carrying business at
No.77, Nungambakkam High Road
Nungambakkam,
Chennai 600 034.

... Petitioner

-VS-

The Registrar of Trade Marks,
Office of Trade Marks Registry,
Intellectual Property Building,
G.S.T. Road, Guindy,
Chennai 600 032.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records in No.TMR/CASH/2024/95 in impugned Order dated 15.03.2024



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passed by the respondent and quash the same and direct the respondent to

take on record the renewal form filed by the petitioner.

For Petitioner : Mr.Surya Senthil
for M/s.Surana and Surana

For Respondent : Mr.M.Karthikeyan, SPC

ORDER

The petitioner applied for registration of trade mark



in class 12 in relation to tractor parts and fittings. Such application was made in October 2001. The application was advertised in the trade marks journal on 06.09.2003. One opposition was filed in respect of such application, and such opposition was dismissed as withdrawn on 14.07.2005. According to the petitioner, in spite of multiple requests for issuance of the registration certificate, the registration certificate was not issued to the



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petitioner. Eventually, the petitioner states that it became aware of the grant of registration certificate dated 22.06.2022 only in early 2024. Therefore, an application for renewal was filed on 27.02.2024 and letter dated 13.03.2024 was issued seeking renewal. Impugned order dated 15.03.2024 rejecting the request for renewal was issued thereafter.

2. Learned counsel for the petitioner referred to the sequence of events outlined above and submitted that the Registrar of Trade Marks did not issue notice to the petitioner in terms of sub-section (3) of Section 25 of the Trade Marks Act, 1999 (the Trade Marks Act) and inform the petitioner / registered Proprietor about the impending date of expiry of the trade mark. He also submits that the trade mark remains on the register and that no action has been taken for the removal of the trade mark.

3. In response to these contentions, learned counsel for the respondent submits that the petitioner should have applied for renewal within six months from the actual date of registration as per sub-rule (3) of Rule 58 of the Trade Marks Rules, 2017 (the Trade Marks Rules). Since the petitioner



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did not apply for renewal by making payment, he submits that the impugned order is justified.

4. In *Jaisuryas Retail Ventures Private Limited v. The Registrar of Trade Marks 2024:MHC:3109 ('Jaisuryas Retail Ventures')*, I concluded that the Registrar of Trade Marks is under an obligation to issue notice under sub-section (3) of Section 25 read with sub-rule (1) of Rule 58 in case an application for renewal is not received in terms of sub-section (2) of Section 25 read with sub-rule (1) of Rule 57. *Jaisurya Retail Ventures* was not a case involving registration of a trade mark after expiry of the date of renewal. When a trade mark is registered after expiry of the date of renewal, sub-rule (3) of Rule 58 becomes applicable. Sub-rule (3) provides that the Registrar is entitled to take steps for removal of the trade mark, subject to Rule 60, if the renewal fee is not paid within **six months** from the date of actual registration. In this case, the admitted position is that no steps have been taken by the Registrar of Trade Marks to remove the trade mark from the register in terms of sub-rule (3) of Rule 58.



5. In paragraphs 9 and 13 of *Jaisuryas Retail Ventures*, it was held as

under:

“9. Subject to issuing notice in Form RG-3, the Registrar is empowered to remove the trade mark from the register in accordance with sub-section (3) of section 25 read with the proviso to Rule 59. Effectively, even after issuing notice, the Registrar cannot remove the trade mark from the register until at least six months have lapsed after the expiry of the last registration because the proviso to sub-section (3) precludes removal if an application is made with the prescribed fee and surcharge within the above- mentioned six month period. Upon expiry of this six month period, the trade mark may be removed subject to such removal being advertised forthwith by the Registrar as per Rule 59. Even thereafter, the registered proprietor has a further window of six months to seek restoration as per sub-section (4) of section 25 read with Rule 60.

*13. Hence, the failure of the respondent to put the registered proprietor on notice with regard to the impending expiry of registration and remove the trade marks from the register thereafter opens the door for such registered proprietor or his successor-in-interest to seek renewal. In this connection, the order of the Delhi High Court in *Irvinder Kaur Chadha* is distinguishable inasmuch as notice under sub-section (3) of section 25 was duly served in that case on the registered proprietor. For reasons set out above, I concur with the conclusion of the Division Bench of the Bombay High Court in *Motwane*.”*



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6. Given the fact that the trade mark remains on the register, as held above, the registered proprietor is entitled to seek renewal. Therefore, interference with the impugned order is warranted.

7. Hence, impugned order dated 15.03.2024 is set aside. As a consequence, the petitioner's application for renewal shall be considered subject to payment of specified fees in such regard. For purposes of considering such application, if necessary, the respondent shall provide access to the portal or, in the alternative, receive the documents in physical form. Therefore, W.P.(IPD) No.22 of 2024 is disposed of on the above terms. No costs.

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Index : Yes / No

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