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CMA(TM)/20/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2025

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**CMA(TM).No.20 of 2024**

M/s.Nirmala Transportation and Logistics Pvt. Ltd.,  
Rep. by its Authorized Signatory, Mr.Gowtham,  
No.52L/1, Tiruchengode Road,  
Palaniyandi Street, Namakkal - 637 001.

... Appellant

-VS-

Registrar of Trade Marks,  
Intellectual Property Building,  
GST Road, Guindy, Chennai - 600 032.

... Respondent

**PRAYER:** Civil Miscellaneous Appeal (Trademarks) filed under Section 91 of the Trade Marks Act, 1999, praying this Court to allow the appeal against the order of the respondent dated 01.12.2023 and set aside the same and direct the respondent to allow the Trade Mark Application No.5198137 filed on 02.11.2021.

For Appellant : Mr.Leelesh Sundaram  
for M/s.Nathan and Associates



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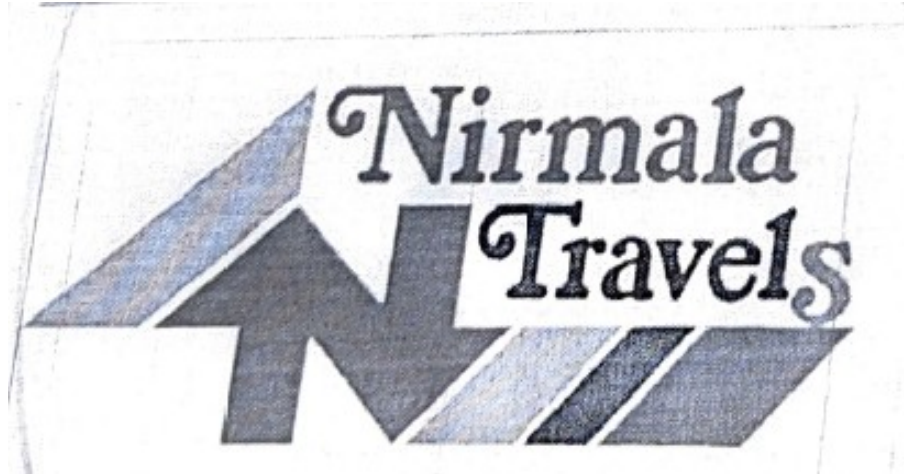
For Respondent : Mr.J.Madanagopal Rao

### **JUDGMENT**

This appeal is directed against order dated 01.12.2023 rejecting trade mark application No.5198137 for the registration of the device mark set out below:

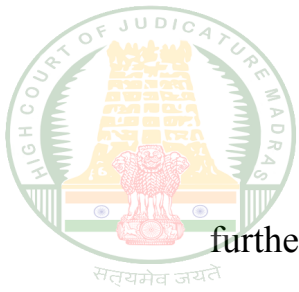


The above mentioned application was filed on 02.11.2021 for registration in Class 39 relating to transportation logistics, logistics services, transportation services, transit services and transport of goods. The application was on “proposed to be used” basis. By examination report dated 25.11.2021, the Registrar of Trademarks raised objections under Section 11(1) of the Trade Marks Act, 1999 (the TM Act) by citing one conflicting mark, namely, the following:



The search report discloses that the said mark is a registered mark in Class 39 pertaining to goods/service transport and travel arrangement. Upon receipt of the examination report, the appellant replied on 01.08.2022 and contended that both the marks are device marks and should be compared as a whole without dissecting the same. The appellant also stated that the cited mark is applied in relation to different services. The order impugned herein was issued in these facts and circumstances.

2. After referring to the appellant's reply to the examination report, learned counsel for the appellant contended that the contentions of the appellant were not discussed or considered in the order impugned herein. Therefore, he submits that the impugned order calls for interference. He



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further submits that the services in respect of which the appellant's mark is applied are distinct from services in respect of which the cited mark is applied. In specific, he states that the appellant's trade mark is applied only in relation to transportation of goods, whereas the cited mark pertains to the business of making arrangements in relation to travel by people. On instructions, he submits that the appellant would undertake not to apply the mark in relation to transportation services relating to people.

3. In response, learned counsel for the respondent states that the appellant also appears to be engaged in transportation services and that the services provided by the appellant and those provided by the registered proprietor of the cited mark are cognate services.

4. The trademark applied for by the appellant is in respect of transportation logistics, including transportation of goods. *Prima facie*, it appears from the examination report that the cited mark is being applied in relation to transport and travel arrangement. On the basis of documents on record, it is not possible to ascertain whether the cited mark is also used in



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relation to the transport of goods. This aspect would have to be considered upon remand. As contended by learned counsel for the appellant, the contentions raised in the reply to the examination report were not taken into account while issuing the impugned order. Therefore, reconsideration is necessary.

5. For reasons set out above, impugned order dated 01.12.2023 is set aside and the matter is remanded for reconsideration. As agreed, the appellant shall provide an undertaking restricting use to the transportation of goods. After providing a reasonable opportunity to the appellant, the respondent is directed to issue a fresh order within three months from the date of receipt of a copy of this order.

6. Therefore, CMA(TM) No.20 of 2024 stands disposed of on the above terms, without any order as to costs.

**04.03.2025**

Index : Yes / No  
Internet : Yes / No  
Neutral Citation: Yes / No  
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**SENTHILKUMAR RAMAMOORTHY,J.**

To

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Registrar of Trade Marks,  
Intellectual Property Building,  
GST Road, Guindy, Chennai - 600 032.

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