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W.P.(IPD)No.38 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2025

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(IPD)No.38 of 2024

M/s.Sakthi Oil Mills
No.5A, Pollachi Road,
P. Vadugapalayam (P.O.),
Palladam-641 664, Tirupur District,
Tamil Nadu.

... Petitioner

-VS-

The Registrar of Trademarks,
Office of the Trademark Registry,
Guindy, Chennai 600 032.

.. Respondent

Prayer: Writ Petition (IPD) filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondent to allow the petitioner to file renewal application for the Trademark “THENALEE” registered under No.1133971 in Class 29 and renew the same for a further period of 10 years from 17.09.2022 by paying the appropriate fees.

For Petitioner : Mr.R.Sathish Kumar

For Respondent : Mr.J.Madanagopal Rao, SPC



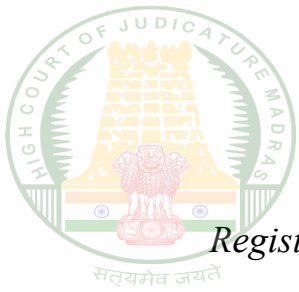
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ORDER

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2.The application for registration of the above mentioned trade mark was filed by the petitioner on 17.09.2002. The Registration Certificate was issued on 04.09.2006. The mark was renewed in the year 2012 and such registration was valid up to 17.09.2022. The petitioner endeavoured to renew the trade mark in October 2024. Since the petitioner was not permitted to do so on the ground that the application for renewal was belated, the present writ petition was filed.

3.By referring to the status of the trade mark as on 29.10.2024, learned counsel for the petitioner submits that the trade mark has not been removed from the Register of Trademarks. Consequently, he submits that the petitioner is entitled to renewal as per the judgment of the Division Bench of this Court in *A.Abdul Karim Sahib and Sons etc. v. Assistant*



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Registrar of Trade Marks, 1973 SCC OnLine Madras 390 (*Abdul Karim Sahib*) and the subsequent judgment of this Court in *Jaisuryas Retail Ventures Pvt Ltd. v. The Registrar of Trade Marks*, 2024:MHC:3109; 2024(100)PTC 25 (MAD) (*Jaisuryas Retail Ventures*).

4.In response, Mr.J.Madanagopal Rao submits that the notice in Form RG-3/13549385 was issued to the petitioner on 26.05.2022. Therefore, he submits that the petitioner is not entitled to renewal at this juncture.

5.The admitted position is that the last registration was valid up to 17.09.2022. In spite of non renewal, the respondent has not taken any steps for the removal of the trade mark in accordance with the Trade Marks Act, 1999 and the Trade Marks Rules framed thereunder. Consequently, as per the judgment of the Division Bench of this Court in *Abdul Karim Sahib* and as per the subsequent judgment in *Jaisuryas Retail Ventures*, the petitioner is entitled to seek renewal. At the same time, it should be recognised that the petitioner was under an obligation to apply for such renewal within a reasonable time. In order to deter such laxity on the part of



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the petitioner in future to apply for renewal within a reasonable time, it is necessary to put the petitioner on terms.

6.For reasons aforesaid, the writ petition is allowed subject to the petitioner paying a sum of Rs.20,000/- (Rupees Twenty thousand only) as costs to the Adyar Cancer Institute, Chennai, within a period of two weeks from the date of receipt of a copy of this order. Subject to fulfillment of the above condition, the respondent is directed to provide access to the website so as to enable the petitioner to file the renewal application along with requisite renewal fees. Such application shall be filed within a period of 30 days from the date of receipt of a copy of this order. In case it is not technically feasible for the respondent to provide access to the portal, in the alternative, the respondent shall receive the renewal application in physical form and process the same.

25.02.2025

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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To
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