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W.P.(IPD)No.37 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2025

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THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

W.P.(IPD)No.37 of 2024

P.Pandian

... Petitioner

-VS-

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

... Respondent

Prayer: Writ Petition (IPD) filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus seeking for a direction to the respondent to permit the petitioner to file renewal application for renewing the Trade Mark 'THILTH' registered under number 1987926 in Class 24 and renew the same in accordance with due process of law.

For Petitioner : Ms.Shruthi Srinivasan

For Respondent : Mr.K.S.Jeyagansan,
Senior Panel Counsel



W.P.(IPD)No.37 of 2024

ORDER

This writ petition is filed seeking for a direction to the respondent to permit the petitioner to file renewal application for renewing the Trade Mark 'THILTH' registered under number 1987926 in Class 24 and renew the same in accordance with due process of law.

2.The brief facts of the petitioner are as follows:

a)The petitioner is engaged in the business of manufacturing and marketing textile goods, such as lungies, handkerchiefs, vests, briefs and various other textile products for the last several decades through himself as well as through his proprietary firm. On 01.07.2010, the partnership firm consisting of Mr. P. Pandiyan, Mr. G. Senthil Kumar, Mr. G. Palanisamy and Mr. P. Karthikeyan, trading as P.M. Palani Mudaliar & Co. applied for registration of the trademark 'THILTH' and obtained the same bearing Application No.1987926 in class 24;

b)Due to some family arrangements, the said partnership was dissolved and the assets, liabilities and the business along with the trademark 'THILTH' registered under Application No. 1987926 in class 24 of the said partnership was taken over by the petitioner herein vide deed of retirement dated 04.12.2017;



W.P.(IPD)No.37 of 2024

c)While so, in the month of November 2024, the petitioner came to know that the Trademark 'THILTH' registered under trademark Application No.1987926 in Class 24 had expired on 01.07.2020. Thereafter, the petitioner was under the bonafide belief that they will be able to renew the trademark and the status as on 30.11.2024 states that the impugned Trademark remains 'registered in the official website of the respondent;

d)The petitioner through their attorney sought to immediately renew the said trademark through the respondent's online portal. However, the respondent's online portal generated a rejection message stating that 'application cannot be renewed' (delay of more than one year). However the petitioner has not received the notice as contemplated under Section 25(3) of the Trademarks Act, 1999 read with Rule 58 of the Trademark Rules 2017 informing the registered proprietor regarding the approaching expiration and the conditions.

3.Learned counsel for the petitioner submitted that since the period came to an end on 01.07.2020, as per Section 25(3) of the Trademarks Act, 1999 read with Rule 58 of the Trademark Rules 2017, if the registry has not received any application for renewal along with the requisite documents, the



W.P.(IPD)No.37 of 2024

registry is bound to issue renewal notice before six months of the expiration of the trademark informing the registered proprietor regarding the approaching expiration and the conditions, but the respondent has not issued any such notice in accordance with due process of law.

4.Per contra, the learned counsel for the respondent submits that when the petitioner has not filed an application to renew the trade mark 'THILTH', in the absence of any application, non compliance of Section 25(3) of the Trademarks Act, 1999 read with Rule 58 of the Trademark Rules 2017 cannot be taken as a mandatory one.

5.This Court vide order dated 13.08.2024 made in W.P. (IPD) Nos.4 to 14 of 2024 has considered the identical situation and has passed the following order:

'10. From the above discussion, the conclusions that follow are that there is a statutory obligation on the Registrar of Trade Marks 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. Given the right of a registered proprietor to renew the registration for blocks of 10



WEB COPY



W.P.(IPD)No.37 of 2024

years at a time, the obvious object and purpose of the notice is to inform the registered proprietor that the time limit for expiry of the registration is approaching and to take necessary action to renew the registration, if so intended. Indeed, even after removal, sub-section (3) of Section 25 read with Rule 59 prescribes that the removal should be advertised in the Trade Mark Journal. Once again, the object and purpose is to put the registered proprietor and the public on notice about the removal of the trade mark so as to enable such registered proprietor to take action for restoration in terms of sub-section (4) of Section 25 read with Rule 60, as also to enable any person interested in or affected by the trade mark to take consequential action.

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15. For reasons set out above, these writ petitions are disposed of on the following terms:

(i) the petitioner is permitted to apply for registration of assignment in accordance with the Trade Marks Act, 1999. Upon receipt of such application, the same shall be considered expeditiously.

(ii) Within one month from the date of registration of the assignment, the petitioner is permitted to apply for renewal of registration of these trade marks. Until such time, the respondent shall not take any steps for the removal of these trade marks.



W.P.(IPD)No.37 of 2024

(iii) In order to enable the petitioner to apply for registration of the assignment and for renewal of these trade marks, the respondent is directed to provide access to the portal or, in the alternative, permit the petitioner to file necessary documents in the physical form.'

6.Since it is the duty cast upon the respondent to send a notice before six months of the expiration of the alleged trademark informing the registered proprietor regarding the approaching expiration and the conditions as contemplated under Section 25(3) of the Trademarks Act, 1999 read with Rule 58 of the Trademark Rules 2017, the same has not been done by the respondent.

7.In view of the same, this writ petition is allowed and the respondent is directed to permit the petitioner to file renewal application for renewing the Trade Mark 'THILTH' registered under Application No. 1987926 in Class 24 and renew the same in accordance with law. No costs.

06.11.2025

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W.P.(IPD)No.37 of 2024

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To
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W.P.(IPD)No.37 of 2024

N.SENTHILKUMAR,J.

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