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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2025

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

(TM)A/3/2025
in (T)OP(TM)/451/2023

M/s. Earth Events (India) Private Limited
S-2, Promenade, 2nd Floor, 76/3, Nandidurga Road,
Bengaluru 560046 and at Shiva Ground Floor, 77/6,
Nandidurga Road, Bengaluru 560046.

... Applicant

-vs-

Carousel Production Inc
7, Ideal Street, Mandaluyong City,
Philippines 1550 and another

... Respondents

For Applicant : Mr.Arjun Santhosh

For Respondents : Ms.Vaishnavi Subrahmanyam
Ms.Annapoorani Ganapathy
for M/s.Thriyambak J.Kannan for R1
Mr.M.Karthikeyan, CGSC for R2

ORDER

The applicant is the first respondent in the rectification petition. The applicant seeks permission to file the additional documents described in the schedule to the Judge's Summons on the ground that these documents



SENTHILKUMAR RAMAMOORTHY,J

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pertain to events that occurred after the filing of the counter affidavit. It is also stated that the rectification petition was filed *inter alia* on the ground of non-use of the impugned mark and that these documents are germane for establishing use of the impugned mark.

2. The application is opposed by learned counsel for the rectification petitioner on the ground that the documents proposed to be filed do not pertain to the relevant period of five years when the impugned mark was not used.

3. The trial in the rectification petition is yet to commence. One of the grounds on which the petition is filed is non use under Section 47(1)(b) of the Trade Marks Act, 1999. On perusal of the schedule, the explanation provided by the applicant for not filing the documents along with the counter statement is liable to be accepted. Therefore, subject to the right of the rectification petitioner to file an affidavit of admission / denial in respect thereof and raise objections *inter alia* on grounds of admissibility, relevance and proof in course of trial, this application is allowed.

**12.06.2025
(3/4)**

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