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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C)-IPD 29/2025, CM 127/2025-Summoning of record, CM 128/2025-Stay, CM 129/2025-Exp

M/S KAMDHENU LIMITED

.....Petitioner

Through: Mr. Akhil Sibal, Sr. Advocate with
Mr. Sudarshan Kumar Bansal, Ms.
Ridhie Bajaj, Ms. Sugandh Shahi,
Mr. Arpit Dudeja and Mr.
Shivendra Pratap Singh, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Kangna Roda, SPC (Through
VC) with Mr. Sarvesh P.
Shrivstava, GP and Ms. Apoorva
Sharma, Advocates for R-1 to R-3.
Mr. Chander M. Lall and Mr.
Abhinav Mukerji, Sr. Advocates
with Mr. Achuthan Sreekumar, Mr.
Ankur Sudan, Ms. Sandhya Singh,
Ms. Swastik Bisarya, Ms. Annanya
Mehan, Ms. Vidhi Jain and Ms.
Archita Nigam, Advocates for R-4.

+ W.P.(C)-IPD 30/2025, CM 130/2025-Summoning of record, CM 131/2025-Stay, CM 132/2025-Exp

M/S KAMDHENU LIMITED

.....Petitioner

Through: Mr. Akhil Sibal, Sr. Advocate with
Mr. Sudarshan Kumar Bansal, Ms.
Ridhie Bajaj, Ms. Sugandh Shahi,
Mr. Arpit Dudeja and Mr.
Shivendra Pratap Singh, Advocates.

versus



UNION OF INDIA & ORS.

.....Respondents

Through:

Mr. Gaurav Barathi, SPC with Mr. Harsh Gupta, Mr. Manas Malegaonkar, Advocates for R-1 to R-3.

Mr. Chander M. Lall and Mr. Abhinav Mukerji, Sr. Advocates with Mr. Achuthan Sreekumar, Mr. Ankur Sudan, Ms. Sandhya Singh, Ms. Swastik Bisarya, Ms. Annanya Mehan, Ms. Vidhi Jain and Ms. Archita Nigam, Advocates for R-4.

+ W.P.(C)-IPD 31/2025, CM 133/2025-Summoning of record, CM 134/2025-Stay, CM 135/2025-Exp

M/S KAMDHENU LIMITED

.....Petitioner

Through:

Mr. Akhil Sibal, Sr. Advocate with Mr. Sudarshan Kumar Bansal, Ms. Ridhie Bajaj, Ms. Sugandh Shahi, Mr. Arpit Dudeja and Mr. Shivendra Pratap Singh, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through:

Mr. Chander M. Lall and Mr. Abhinav Mukerji, Sr. Advocates with Mr. Achuthan Sreekumar, Mr. Ankur Sudan, Ms. Sandhya Singh, Ms. Swastik Bisarya, Ms. Annanya Mehan, Ms. Vidhi Jain and Ms. Archita Nigam, Advocates for R-4.

+ W.P.(C)-IPD 32/2025, CM 136/2025-Summoning of record, CM 137/2025-Stay, CM 138/2025-Exp

M/S KAMDHENU LIMITED

.....Petitioner

Through:

Mr. Akhil Sibal, Sr. Advocate with



Mr. Sudarshan Kumar Bansal, Ms. Ridhie Bajaj, Ms. Sugandh Shahi, Mr. Arpit Dudeja and Mr. Shivendra Pratap Singh, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through:

Ms. Nidhi Raman, CGSC with Mr. Arnav Mittal, Advocate for R-1 to R-3.

Mr. Chander M. Lall and Mr. Abhinav Mukerji, Sr. Advocates with Mr. Achuthan Sreekumar, Mr. Ankur Sudan, Ms. Sandhya Singh, Ms. Swastik Bisarya, Ms. Annanya Mehan, Ms. Vidhi Jain and Ms. Archita Nigam, Advocates for R-4.

+ W.P.(C)-IPD 33/2025, CM 139/2025-Summoning of record, CM 140/2025-Stay, CM 141/2025-Exp

M/S KAMDHENU LIMITED

.....Petitioner

Through:

Mr. Akhil Sibal, Sr. Advocate with Mr. Sudarshan Kumar Bansal, Ms. Ridhie Bajaj, Ms. Sugandh Shahi, Mr. Arpit Dudeja and Mr. Shivendra Pratap Singh, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through:

Mr. Satya Ranjan Swain, SPC with Mr. Sarvesh P. Shrivastava, GP for R-1 to R-3.

Mr. Chander M. Lall and Mr. Abhinav Mukerji, Sr. Advocates with Mr. Achuthan Sreekumar, Mr. Ankur Sudan, Ms. Sandhya Singh,



Ms. Swastik Bisarya, Ms. Annanya Mehan, Ms. Vidhi Jain and Ms. Archita Nigam, Advocates for R-4.

CORAM:
HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER
28.05.2025

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1. It is the duty of a High Court to set the 'wrong' right and to not let the same perpetrate any further. That is the reason that the Legislature has provided for the provision qua invocation of extra-ordinary jurisdiction by a High Court under *Article 226* of the Constitution of India. Tough situations demand exercising of tough measures and sometimes recourse to appropriate remedies under *Article 226* of the Constitution of India is the only way out. Present proceedings (a batch of five writ petitions) is/ are one such glaring example of a peculiar situation regarding the manner of working by the Trade Marks Registry in general which also included the five trademark applications involved herein.

2. The preface thereof is already laid out in the earlier order dated 09.05.2025, when the proceedings were listed before this Court for the first time. Relevant extract thereof is reproduced as under:-

"4. Learned counsel appearing for the respondent nos.2 and 3 despite repeated queries, have failed to revert with any answers since they are yet to receive instructions.

5. Prima facie, this Court finds something not in order, more so, since it is but strange that the part of the records maintained and available with the respondents are not being shown. There is something amiss.

6. Accordingly, considering the factual matrix involved, particularly, since as many as, 16 trademarks duly registered and subsisting in the name of the petitioner are (not) finding mention in the accompanying Search Report sent along with the ER, it is deemed appropriate to call either of the Examination Officer, namely, Mr. Nehul Kumar or Mr. Rahul Kumar, who have issued



the respective ER involved in the writ petitions, to remain physically present in this Court alongwith the appropriate hand held device in the form a laptop, I-pad or any other similar instrument on 15.05.2025 at 02:30 P.M. for assisting this Court for getting a clear picture qua the software being used by the respondent nos.1 and 2 at the time of preparing the Search Report. 7. This Court also deems it appropriate to also call upon the Registrar of Trademarks to join virtually on 15.05.2025 at 02:30 P.M. as well."

3. The same is also evident from the order dated 15.05.2025, when the proceedings were listed before this Court again on 15.05.2025. Relevant extract thereof is reproduced as under:-

"1.Mr. Unnat Pandit, Controller General of Patents, Design and Trademark, has joined through video conferencing and Mr. Mehul Kumar, Examiner, is also present in person in compliance of the last order.

2. The office the Trade Mark Registry has shared the screen with this Court, wherein the whole process of issuance of examination report as also the search conducted thereafter for issuance of the search report has been demonstrated.

3. This Court appreciates the co-operation extended by both Mr. Unnat Pandit, Controller General of Patents, Design and Trademark as also Mr. Mehul Kumar, Examiner.

4. After some time, learned counsel for the respondent nos.1, 2 and 3 seek, and are granted, one week for obtaining instructions qua the trademark applications in issue in the present petitions(s). Further, if they so desire, they shall be free to file an affidavit qua the issue at hand within the aforesaid period of one week as well."

4. Both the aforesaid orders dated 09.05.2025 and 15.05.2025 reflect that there were indeed some omissions on the part of the respondent nos.1 to 3 in these petitions. In fact, in response thereto, though there was no specific order for the respondent nos.1 to 3 for filing an affidavit, however, they filed a short affidavit wherein they have themselves categorically stated as under:-

"5. THAT it is respectfully submitted that the Respondent No.3 (Trademark Registry) is willing to withdraw acceptance of the



trademark Application number 6845025 in exercise of the powers conferred under section 19 of the Trademark Act, 1999, and shall examine the application afresh, on merits, in accordance with the provisions of the Trade Marks Act and rules framed thereunder. Details of Trademark Application No.6845025.

Description	Date	Time
TM-A (TRADE MARKS APPLICATION)	07/02/2025	
TM-M (EXPEDITED EXAMINATION)	07/02/2025	
First Examination Report	07/02/2025	
Reply to Exam Report (MIS-R)	07/02/2025	16:51
Acceptance Order	07.02.2025	16:57

6. THAT the Respondent No.3 (Registrar of Trademark) had appeared before the Hon'ble Court on 15.05.2025 pursuant to the Order dt. 09.05.2025 wherein the Hon'ble Court Observed that" Prima facie, this Court finds something not in order, more so, since it is but strange that the part of the records maintained and available with the respondents are not being shown. There is something amiss" Hence pursuant to the hearing dated 15.05.2025 the Registrar of Trademarks has initiated appropriate administrative action against Mr. Mehul Kumar, Examiner of Trade Marks, and Mr. Rahul Kumar, Senior Examiner of Trade Marks in accordance with the applicable service rules and procedures.

7. THAT in light of the foregoing, Respondent Nos. 1 to 3 most respectfully submit that the aforementioned submissions may kindly be considered by this Hon'ble Court while adjudicating the present Petition."

5. Before proceeding further, at the outset, this Court applauds the alacrity shown by the respondent nos.1 to 3 in initiating timely action at their end to put their house back in order at the earliest and in the best possible manner. But, at the same time, for conserving the multiplicity of litigation, it is felt appropriate, fit and proper if this Court *suo moto* in exercise of its power under Article 226 of the Constitution of India take



steps which are in overall interest of the general public including that of the petitioner and the respondent no.4 herein.

6. Though, no doubt it was open to the petitioner to have availed any of the other statutory remedies as available to it in accordance in law instead of filing the present writ petitions, however, without advertng to the same and considering the factual matrix involved, the nature of the grievances raised and the type of reliefs sought by the petitioner in the present proceedings and in furtherance of the earlier two orders dated 09.05.2025 and 15.05.2025 passed by this Court as also taking into consideration the averments made by the respondent nos.1 to 3 in the short affidavit filed on their behalf, wherein it is specifically stated that appropriate action has been initiated against the Examiners involved, this Court felt it appropriate, fit and proper to proceed with passing appropriate orders without advertng to the merits involved herein or even issuing notice therein by *suo moto* exercising its extra-ordinary, inherent jurisdiction under *Article 226* of the Constitution of India.

7. This was, more so, since the facts of these proceedings were relating to petitioner having raised questions qua the entire Examination followed by the Registrar and its officers and also the acceptance of the five trademark applications i.e. application no.6890699 in W.P.(C)-IPD 29/2025, application no.6845025 in W.P.(C)-IPD 30/2025, application no.6845771 in W.P.(C)-IPD 31/2025, application no.6890704 in W.P.(C)-IPD 32/2025 and application no.6742246 in W.P.(C)-IPD 33/2025; and that the Registrar having conducted the proceedings in dereliction of his statutory duties in complete disregard of law specifically, *Rule 33* of the



Trademark Rules¹ and *Section 11* of the Trademarks Act, 1999² as also various dictums of this Court.

8. In view of the aforesaid, since there is an apparent gross abuse of jurisdiction by the Trade Marks Registry, which is subordinate to this Court, in the considered opinion of this Court, these are fit cases for this Court to *suo moto* invoke the extra-ordinary jurisdiction of this Court under *Article 226* of the Constitution of India. Furthermore, it is a settled law that entertainment of such writ petitions under *Article 226* of the Constitution of India, even when an efficacious alternative remedy is available, is a self-imposed limitation, a rule of policy, convenience and discretion than a rule of law and there is no statutory absolute bar for this Court to proceed with the hearing thereof. Reliance is placed upon the dictum of the Hon'ble Supreme Court in ***Commissioner of Income Tax & Ors. vs. Chhabil Das Agarwal*** (2014) 1 SCC 603, wherein it has been held as under:-

“11. Before discussing the fact proposition, we would notice the principle of law as laid down by this Court. It is settled law that non-entertainment of petitions under writ jurisdiction by the High Court when an efficacious alternative remedy is available is a rule of self-imposed limitation. It is essentially a rule of policy, convenience and discretion rather than a rule of law. Undoubtedly, it is within the discretion of the High Court to grant relief under Article 226 despite the existence of an alternative remedy. However, the High Court must not interfere if there is an adequate efficacious alternative remedy available to the petitioner and he has approached the High Court without availing the same unless he has made out an exceptional case warranting such interference or there exist sufficient grounds to invoke the extraordinary jurisdiction under Article 226. (See State of U.P. v. Mohd. Nooh [AIR 1958 SC 86] , Titaghur Paper Mills Co. Ltd. v. State of Orissa [Titaghur Paper Mills Co. Ltd. v. State of Orissa, (1983) 2 SCC 433 : 1983 SCC (Tax) 131] , Harbanslal Sahnia v. Indian

¹ Hereinafter referred as “**Rules**”

² Hereinafter referred as “**the Act**”



Oil Corpn. Ltd. [(2003) 2 SCC 107] and State of H.P. v. Gujarat Ambuja Cement Ltd. [(2005) 6 SCC 499])”

9. Reliance is also placed upon ***State of H.P. & Ors. vs Gujarat Ambuja Cement Ltd. & Anr.*** (2005) 6 SCC 499, wherein it has been held as under:-

“17. We shall first deal with the plea regarding alternative remedy as raised by the appellant State. Except for a period when Article 226 was amended by the Constitution (Forty-second Amendment) Act, 1976, the power relating to alternative remedy has been considered to be a rule of self-imposed limitation. It is essentially a rule of policy, convenience and discretion and never a rule of law. Despite the existence of an alternative remedy it is within the jurisdiction of discretion of the High Court to grant relief under Article 226 of the Constitution. At the same time, it cannot be lost sight of that though the matter relating to an alternative remedy has nothing to do with the jurisdiction of the case, normally the High Court should not interfere if there is an adequate efficacious alternative remedy. If somebody approaches the High Court without availing the alternative remedy provided the High Court should ensure that he has made out a strong case or that there exist good grounds to invoke the extraordinary jurisdiction.”

10. As such, in view of the above and under the facts and circumstances involved, this Court is of the considered opinion that it can exercise jurisdiction under *Article 226* of the Constitution of India even when an *alternative remedy* is available. More so, since the present proceedings are such, *particularly*, whence they were warranting interference by this Court to *suo moto* exercise its extra ordinary jurisdiction *Article 226* of the Constitution of India to meet the ends of justice, whence they are being done to bring the house of Trade Mark Registry in order, so that faith of the general public in the governmental institutions/ Courts/ Tribunals/ Judicial/ Quasi-Judicial, is restored not lost. This will not be possible if this Court does not exercise its extra-ordinary jurisdiction.

11. As such, cumulatively taking all the aforesaid factors, the nature of



the proceedings involved, the acts of the Trade Marks Registry *particularly* in view of the contents of the short affidavit filed by the respondent nos.1 to 3, as also in the interest of justice, it is deemed appropriate, fit and proper to remand the fate of all the five trademark application no.6890699 in W.P.(C)-IPD 29/2025, trademark application no.6845025 in W.P.(C)-IPD 30/2025, trademark application no.6845771 in W.P.(C)-IPD 31/2025, trademark application no.6890704 in W.P.(C)-IPD 32/2025 and trademark application no.6742246 in W.P.(C)-IPD 33/2025 for *de novo* adjudication in accordance with law by the Registrar of Trade Marks, without issuance of any notice in the present writ petitions.

12. At this stage, this Court adverts to hear the learned senior counsel for respondent No.4 at length, since he primarily objected to passing the aforesaid order qua *de novo* adjudication of the impugned applications in accordance with law by the Registrar of Trade Marks without issuance of notice and/ or hearing him on maintainability/ merits of the present petition(s) because the said respondent No.4 is an affected party and because it virtually tantamount to allowing of the present petitions.

13. Thence, relying upon ***Kaira District Cooperative Milk Producers Union Ltd. & Anr. vs. Registrar of Trademarks & Ors.***, 2023:DHC:2066 (paragraphs 11 and 23) wherein a Co-ordinate Bench of this Court has gone into the aspect of *Section 21* of the Act as also the justification of the scheme of the Act and the Rules, learned senior counsel for respondent no.4 submits that this Court ought not proceed to pass the said order. Further relying upon ***T.K. Lathika Vs. Seth Karsandas Jamnadas*** (1999) 6 SCC 632, wherein the Hon'ble Supreme Court has laid down the



contours as to when the Court should enter into the merits of the proceedings involved, *particularly*, qua the maintainability of a petition is in question, learned senior counsel reaffirms that this Court is not competent to pass such an order of remand.

14. In rebuttal, relying upon ***Jai Bhagwan Gupta Vs. Registrar of Trade Marks & Ors.*** 2020:DHC:1532, the learned senior counsel for petitioner submits that a Co-Ordinate Bench of this Court, under similar kind of circumstances involving the Trade Marks Registry, has held that a specific order has to be passed by the Registrar as to the reason why the mark is being accepted and there has to be a clear application of mind by the Registrar under *Section 20(1)* of the Act, which should not be a mere formality. The aforesaid is missing in the proceedings before the Trade Marks Registry.

15. Further, learned senior counsel for petitioner relying upon ***Kaira District Cooperative Milk Producers Union Ltd. & Anr. Vs. D. N. Bahari Trading*** 2024:DHC:2868, submits that a Co-Ordinate Bench of this Court under similar kind of circumstances involving *Rule 33* of the Rules has held that compliance of *Rule 33* of the Rules is mandatory.

16. In rejoinder arguments, learned senior counsel for respondent no.4 distinguished ***Jai Bhagwan Gupta (Supra)*** by submitting that although similar reliefs, as sought by the petitioner herein, were sought therein also, the said writ petition was disposed of only with the direction for the opposition proceedings to be decided as expeditiously as possible as also the right to oppose the said advertised mark was kept open and it was ordered to be decided in accordance with law. Qua ***Kaira District Cooperative Milk Producers Union Ltd. & Anr. Vs. D. N. Bahari***



Trading (supra), learned senior counsel submits that the said case was of a rectification petition and was not a writ petition and thus is not applicable to the facts of the present case.

17. Be that as it may, this Court once again reiterates that since the present petitions involve peculiar, strange and exceptional circumstances, they call for orders passed *suo moto* by invoking the extra-ordinary jurisdiction under *Article 226* of the Constitution of India. Reliance is once again placed upon the earlier orders dated 09.05.2025 and 15.05.2025 passed by this Court as also the resultant short affidavit filed by the respondent nos.1 to 3 wherein, it is specifically stated that appropriate action have been initiated against the Examiners involved.

18. Qua the two judgments cited by learned senior counsel for the respondent no.4, this Court finds that the underlying common thread running through them are that notice(s) had already been issued in both of them and the Court(s) were not exercising extra-ordinary jurisdiction under *Article 226* of the Constitution of India. Moreover, in ***Kaira District Cooperative Milk Producers Union Ltd. & Anr. vs. Registrar of Trademarks & Ors. (supra)*** the opposition proceedings were already filed and pending before the Trade Marks Registry and the learned Single Judge deemed it appropriate not to entertain the petition as parallel proceedings and adjudicate the grievance of the petitioner therein.

19. In any event, in the present peculiar factual circumstances, the petitioner has approached this Court under *Article 226* and *Article 227* of the Constitution of India without/ before filing any opposition proceedings to any of the five trademark applications and/ or even when the mandatory period for filing the same still available to the petitioner.



20. In view of the aforesaid discussions, this Court sees no reason and/or impediment for this Court to *suo moto* exercise of its inherent jurisdiction under *Article 226* of the Constitution of India for setting a 'wrong' right in the public good.

21. In view of the aforesaid, the writ petitions are disposed of remanding all the five trademark applications i.e. application no.6890699 in W.P.(C)-IPD 29/2025, application no.6845025 in W.P.(C)-IPD 30/2025, application no.6845771 in W.P.(C)-IPD 31/2025, application no.6890704 in W.P.(C)-IPD 32/2025 and application no.6742246 in W.P.(C)-IPD 33/2025 for *de novo* adjudication by the Registrar of Trade Marks in accordance with law.

22. A copy of this order be sent to the Registrar of Trade Marks for initiating appropriate time bound action(s) as necessary in accordance with law after giving due notice to all the concerned parties.

23. A copy of this order be kept in other connected petitions.

SAURABH BANERJEE, J

MAY 28, 2025

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