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

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Date of decision: 15th January, 2025

+ **C.O. (COMM.IPD-TM) 80/2024 with I.A. 31622/2024**

7 **ROPEN TRANSPORTATION SERVICES
PRIVATE LIMITED**

.....Petitioner

Through: Ms. Aishwarya Kane, Ms. Kruttika
Vijay and Ms. Chhavi Tokas,
Advocates

versus

MR. NIPUN GUPTA & ANR.

.....Respondents

Through: None

+ **C.O. (COMM.IPD-TM) 138/2024 with I.A. 34641/2024**

8 **ROPEN TRANSPORTATION SERVICES
PRIVATE LIMITED**

.....Petitioner

Through: Ms. Aishwarya Kane, Ms. Kruttika
Vijay and Ms. Chhavi Tokas,
Advocates

versus

MR. NIPUN GUPTA & ANR.

.....Respondents

Through: None

+ **C.O. (COMM.IPD-TM) 139/2024 with I.A. 34644/2024**

9 **ROPEN TRANSPORTATION SERVICES
PRIVATE LIMITED**

.....Petitioner



2025:DHC:270



Through: Ms. Aishwarya Kane, Ms. Kruttika
Vijay and Ms. Chhavi Tokas,
Advocates

versus

MR. NIPUN GUPTA & ANR.

.....Respondents

Through: None

+ **C.O. (COMM.IPD-TM) 140/2024 with I.A. 34647/2024**

**10 ROPPEN TRANSPORTATION SERVICES
PRIVATE LIMITED**

.....Petitioner

Through: Ms. Aishwarya Kane, Ms. Kruttika
Vijay and Ms. Chhavi Tokas,
Advocates

versus

MR. NIPUN GUPTA & ANR.

.....Respondents

Through: None

**CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL**

AMIT BANSAL, J. (Oral)

1. The present rectification petitions have been filed under Sections 47 and 57 of the Trade Marks Act, 1999 seeking rectification/ cancellation of registrations of the impugned mark 'RAPIDO', the details of which are as follows:

- i. Trade Mark No. 4459206 in class 39 dated 2nd March, 2020.
- ii. Trade Mark No. 4459194 in class 12 dated 2nd March, 2020.



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- iii. Trade Mark No. 4459197 in class 25 dated 2nd March, 2020.
- iv. Trade Mark No. 4459208 in class 42 dated 2nd March, 2020.

PROCEEDINGS IN THE PETITIONS

- 2. Notices in the present petitions were issued to the respondents on 31st May, 2024. The respondent no.1, which is the contesting respondent, was served through ordinary mode on 5th July, 2024 and through speed post on 1st August, 2024.
- 3. Despite service, neither an appearance has been made on behalf of the respondent no.1, nor did he file any reply to the petitions.
- 4. Accordingly, the right of the respondent no.1 to file reply to the petitions was closed *vide* the Order of Joint Registrar dated 4th December, 2024 and the respondent no.1 was proceeded against *ex-parte*.
- 5. Even today, none appears on behalf of respondent no.1.

BRIEF FACTS

- 6. The petitioner was incorporated in the year 2015 and is engaged in the business of providing innovative bike-taxi solutions under the marks  'RAPIDO' and 'rapido', (hereinafter 'RAPIDO marks'). As on date, the petitioner has a pan-India presence and is present in 24 states and 117 cities in India.
- 7. The petitioner registered its domain www.rapido.bike on 23rd September, 2015. The petitioner primarily operates through its mobile application which was launched on 30th September, 2015 and is available for



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download from Google Play Store and Apple Store, among others. The petitioner's application for customer has been downloaded more than 50 million times from Google Play Store and has an average rating of 4.5 from over 2.1 million reviewers. Further, on Apple Store, the petitioner's application has an overall rating of 4.8 from over 8.9 lakh reviewers. Since its incorporation, the petitioner has earned tremendous goodwill and reputation under the RAPIDO marks among its customers.

8. The petitioner holds multiple trade mark registrations for its RAPIDO marks in classes 39 and 42. The earliest registration in favour of the



petitioner is for the mark 'rapido' in Class 39 with effect from 14th November, 2017.

9. The details of the revenue generated by the petitioner from the financial year 2014-15 to 2022-23 have been provided in paragraph no.16 of the petitions. Pertinently, the revenue of the petitioner for the financial year 2022-23 is over ₹497 crores, i.e., almost 500 crores.

10. The details of the advertisement expenditure incurred by the petitioner from the financial year 2018-19 to 2022-23 is given in paragraph no.18 of the petitions. The expenditure incurred by the petitioner towards advertisement activities in the financial year 2022-23 is to the tune of ₹240 crores.

11. Further, many vehicles (which fall in class 12) used by the petitioner in providing its services bear the RAPIDO marks and the petitioner's captains riding the vehicles of the petitioner wear the clothing (which fall in



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class 25) supplied by the petitioner, which also prominently bear the RAPIDO marks. The aforesaid is evident from the example provided by the petitioner in paragraph no.13 of the petitions, which is also extracted below for ease of reference:



12. The petitioner's business under the RAPIDO marks has received wide media and public attention and the petitioner and its RAPIDO marks have been featured on reputed channels/ platforms including The Times of India, Forbes India, India Today, Live Hindustan and BW Dispute.

13. The petitioner is aggrieved by the fact that the respondent no.1 has obtained registration of the word mark 'RAPIDO' in classes 39, 12, 25 and 42, which are the subject matter of present petitions.

SUBMISSIONS OF THE PETITIONER

14. Ms. Aishwarya Kane, appearing on behalf of the petitioner, submits that the impugned mark is liable to be removed from the Register of Trade Marks on account of the following:



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- i. The impugned mark is a word mark, is identical with the petitioner's prior adopted, registered and well-reputed mark RAPIDO and is registered in the name of the respondent no.1 in relation to goods and services identical with those of the petitioner.
- ii. Petitioner has been continuously and extensively using the RAPIDO marks since 2015 and has a user base of over 10 million customers, whereas the impugned mark has been registered with effect from 2nd March, 2020 on a '*proposed to be used*' basis.
- iii. The impugned mark is, therefore, likely to cause confusion among the members of trade and public and will also create a false impression among the consumers that the goods/services of the respondent no.1 under the impugned mark is affiliated or associated with those of the petitioner.

ANALYSIS AND FINDINGS

15. I have heard the counsel for the petitioner and perused the record of the present petitions.

16. The respondent no.1 has not filed his reply to the present petitions, which indicates that he has nothing substantial to put forth on merits, by way of a response to the averments made in the petitions. In view of the above, the averments made in the petitions are deemed to be admitted.

17. A perusal of the records in the aforesaid matters shows that the petitioner is the prior adopter and user of the well-reputed RAPIDO marks

and its earliest registration for the mark '

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back to the year 2017. *Per contra*, the respondent no.1 obtained registration for the impugned mark with effect from 2nd March, 2020 on a '*proposed to be used*' basis.

18. As evident from the aforesaid, the impugned mark is identical with the petitioner's RAPIDO marks and is registered in classes 12, 25, 39 and 42 in relation to identical / similar goods and services. Further, the target consumers of the competing parties are identical. Thus, the Triple Identity Test, *i.e.*, the existence of an identity / similarity between the respective marks, goods/ services and trade channels is satisfied in the present petitions.

19. Considering the aforesaid, I am of the view that the impugned mark is likely to cause confusion and deception among the consumers who are ordinary persons of average intelligence and imperfect recollection, especially as the petitioner has been using the RAPIDO marks since the year 2015 and has acquired immense goodwill and reputation thereunder.

20. In view of the above, it is clear that the impugned mark has been adopted by the respondent no.1 dishonestly to trade upon the goodwill and reputation of the petitioner under the RAPIDO marks and to associate itself with the petitioner. Therefore, the continuation of the registrations of the impugned mark in the name of the respondent no.1 in the Register of Trade Marks is in contravention of the provisions of Section 11 of the Act and is liable to be cancelled under the provisions of Section 57 of the Act.

21. Accordingly, the present petitions are allowed and the Trade Mark Registry is directed to remove the impugned mark 'RAPIDO' bearing trade



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mark nos. 4459206 in Class 39, 4459194 in Class 12, 4459197 in Class 25 and 4459208 in Class 42 in the name of the respondent no.1 from the Register of Trade Marks.

22. All the aforesaid petitions are allowed.

23. The Registry is directed to supply a copy of the present order to the Trade Mark Registry, at e-mail: llc-ipo@gov.in, for compliance.

24. The pending applications stand disposed of.

AMIT BANSAL, J

JANUARY 15, 2025

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