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

% *Date of decision : 26th May, 2025*

+ **W.P.(C)-IPD 35/2022 & CM 145/2022**

AMBIKA INDUSTRIAL CORPORATIONPetitioner

Through: **Ms. Suman Gupta, Advocate.**

versus

**THE REGISTRAR OF TRADE MARKS &
ANR.**

.....Respondents

Through: **Mr. Nitinja Chaudhry, Senior Panel
Counsel with Mr. Rahul Mourya,
Advocate for R-1.
Mr. Amit Jain and Ms. Ishita Suri,
Advocates for R-2.**

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present writ petition has been filed challenging the impugned order dated 13th July, 2018, passed by the Trade Marks Registry pursuant to which TM-34 filed on behalf of the respondent no.2 has been allowed.

2. The brief facts leading to the filing of the present writ petition are as follows:

2.1. The petitioner firm, through its predecessor, adopted the trade name 'AMBIKA INDUSTRIAL CORPORATION' and mark/ label 'AMBIKA' in respect of cycles and its accessories and fittings.

2.2. The petitioner firm filed multiple applications seeking registration of



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the mark “AMBIKA” under various classes, including 12, 28, and 35 since 1981.

2.3. The respondent no.2 was one of the partners of the petitioner firm. The respondent no.2, vide retirement deed dated 1st April 1987, retired from the petitioner firm, relinquishing all his rights, titles, and interest in the partnership firm.

2.4. On 30th April 1997, the petitioner firm obtained registration for the trade mark ‘AMBIKA’ registered under application no. 381350.

2.5. Subsequently, a TM-24 was filed by the petitioner firm on 30th April 1998 requesting to enter subsequent proprietor of the trade mark under no. 381350. The said TM-24 was allowed on 30th November 2006, and the partners of the petitioner firm, as on 1st April 1996, were incorporated as registered proprietors in the Register of Trade Marks.

2.6. Subsequently, the petitioner firm filed a civil suit being CS(COMM) 63/2018 (originally Suit No. 2175/2007) before the High Court of Delhi against Ambika Exports Pvt. Ltd., wherein Rakesh Kumar (respondent no.2 herein), a former partner of the petitioner firm, is one of the directors. On 19th November 2007, an ad-interim injunction was passed restraining the defendant from using the marks ‘AMBIKA’, ‘AMBI’, or any deceptively similar mark.

2.7. Thereafter, respondent no.2 filed an objection before respondent no.1, disputing the NOC affidavit submitted in the TM-24 proceedings as forged and fabricated. Pursuant to the said objection, a hearing was conducted, and vide order dated 23rd December, 2011, the Registrar of Trade Marks directed the removal of the TM-24 entry dated 30th November 2006, pending adjudication of rights of the parties in the civil suit.



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2.8. In 2010, rectification petitions were also filed by the respondent no.2 before the Intellectual Property Rights Appellate Board ('IPAB') seeking cancellation of the 'AMBIKA' marks registered by the petitioner firm. However, in 2013, all rectification petitions were dismissed by the IPAB. Further, the review petitions preferred against the said order have also been dismissed.

2.9. Subsequently, respondent no.2 filed a TM-34 dated 23rd September 2013, for a change in the registered address and the same was allowed vide order dated 13th July 2018.

2.10. Being aggrieved by the said order, a review petition was preferred by the petitioner firm. Though a hearing was initially fixed, it was adjourned upon respondent no.2's request. Despite repeated communications and reminders by the petitioner firm, no subsequent hearing has been scheduled.

2.11. Subsequently, the petitioner firm discovered through a Right to Information (RTI) application that the records of respondent no.1 bear the wrong address. It was also found that the respondent no.2 had misused the altered records to file a suit before the District Judge, Ludhiana, claiming co-ownership of the trademark.

3. Being aggrieved by the change in address and aforesaid activities of respondent no.2, the petitioner firm through present writ petition, seeks restoration of the address of the registered proprietor of the registered trademark bearing application no.381350 as it stood before the impugned order dated 13th July, 2018 was passed.

4. Notice in the present petition was issued on 20th December 2022.

5. It was noted in the order passed by this Court on 17th December, 2024, that the impugned order dated 13th July, 2018, has not been uploaded



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by the Registry.

6. Accordingly, Mr Nitinjya Chaudhary, Senior Panel Counsel appearing on behalf of the respondent no.1, was directed to file an affidavit in this regard.

7. Pursuant to the aforesaid direction, an affidavit dated 15th April 2025 has been filed on behalf of the respondent no.1. In the aforesaid affidavit, it has been stated that the order allowing the TM-34 application filed by the respondent no.2 has already been uploaded, and the same has been filed along with the affidavit. The screenshot of the said order, as available on the website of the respondent no.1 has been filed along with the said affidavit. The relevant extracts from the said order are set out below:-

“Pursuant to a request on Form TM-34 dated 23/09/2013 and order thereon dated 13/07/2018 registered proprietor(s) trade or business address is altered to 110-R, Modern Town, Ludhiana-141002.”

8. It is an admitted position that the registered proprietor of the subject mark is the petitioner firm. Further, the respondent no.2, who had filed the TM-34 application, was also a partner of the petitioner firm.

9. It is the case of the petitioner firm that the respondent no.2 had retired from the partnership firm in 1987. This is contested by respondent no.2, and counsel for the parties submit that there is a civil suit pending between the parties before this Court.

10. Without going into the merits of the rival claims, in my considered view, the address of the registered proprietor of the mark cannot be changed from that of the petitioner firm to the respondent no.2's address.

11. The impugned order passed by the Trade Marks Registry also does not give any basis for effecting the said change.



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12. It is an undisputed position that the petitioner firm continues to be the registered proprietor of the mark. Clearly, the impugned order has been passed by the respondent without any justification or rational basis.

13. Accordingly, the aforesaid order dated 13th July, 2018, is quashed and a direction is issued to the respondent no.1 to restore the address of the registered proprietor as it was before the impugned order dated 13th July, 2018 was passed.

14. To balance equities between the parties, it is directed that all communications sent by the Registry with regard to the impugned mark to the petitioner firm shall also be marked to the respondent no.2 at the following address:-

*110-R, Modern Town,
Ludhiana-141002*

15. Accordingly, the present writ petition stands disposed of.

16. The Registry is directed to send a copy of this order to the Trade Marks Registry on email llc-ipo@gov.in for compliance.

AMIT BANSAL, J

MAY 26, 2025

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