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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ C.A.(COMM.IPD-TM) 157/2022 and I.A. 19965/2022 & I.A.
20009/2022

KUSUM ELECTRICALS
PROP RAM KARAN YADAV

.....Appellant

Through: Mr. Amarendra Dubey and Mr. K. L.
Mishra, Advocates

versus

DEPUTY REGISTRAR TRADEMARK & ANR.Respondents

Through: Mr. Sumit Nagpal, Ms. Aastha Sood
and Mr. Tanmay Saini, Advocates for
R-1.
Mr. Gaurav Gaur, Mr. Mahan Arora,
Ms. Srishti Arora and Mr. Saubhagya
Arora, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% **15.05.2025**

1. The present appeal has been filed seeking the setting aside of the impugned order passed by the Deputy Registrar of Trademarks on 9th November, 2022, whereby the rectification petition filed on behalf of the respondent no.2 has been allowed and the mark of the appellant 'STARMODI' has been ordered to be removed from the Registry.
2. Brief facts necessary for the adjudication of the present appeal are as follows:



3. A rectification petition was filed on behalf of the respondent no.2 on 16th September, 2017 seeking cancellation of the registration of the impugned mark 'STARMODI' bearing no.2412178 in class 11 granted in favour of the appellant.
4. Despite being served with the notice of opposition on 18th July, 2019, no counter-statement was filed on behalf of the appellant within the prescribed statutory time period, and thus, the appellant's right to file the same stood closed.
5. Subsequently, the respondent no.2 filed its evidence in support of the opposition. However, no counter-evidence was filed on behalf of the appellant. Thereafter, the opposition was fixed for hearing before the Trademark Registry.
6. At the hearing scheduled on 28th July, 2022, an adjournment was taken on behalf of the appellant. On the next date of hearing, i.e. 12th September, 2022, the respondent no.2 took an adjournment. Ultimately, the hearing was fixed for 13th October, 2022, which was attended by the counsel for respondent no.2. However, none appeared on behalf of the appellant on the date of the said hearing.
7. Pursuant to the aforesaid hearing, the impugned order was passed on 9th November, 2022 and the appellant's registration for the impugned mark was cancelled.
8. It is the submission of the counsel for the appellant that the date of hearing was missed by the appellant's attorney and the appellant came to know of the impugned order only after he was informed by its distributors that the mark of the appellant has been removed from the Register of Trademarks.



9. Without going into the merits of the case and taking into account the principles of natural justice, I am of the view that one opportunity should have been granted to the appellant to appear before the Trademark Registry to present its case. A perusal of the impugned order shows that the same has been passed on account of non-appearance of the appellant only on one date of hearing. The impugned order has harsh consequences on the appellant inasmuch as the Trademark that was registered in favour of the appellant in 2012 has been ordered to be removed, and that too without the appellant being given an opportunity of being heard.

10. In view of the above, the impugned order dated 9th November, 2022 is set aside and the matter is remanded back to the Trademark Registry to decide the same afresh after giving a hearing notice to the appellant and the respondent no.2.

11. It is made clear that the right of the appellant to file counter-statement as well as counter-evidence already stands closed and there cannot be any question of the appellant being provided a fresh opportunity to file a counter-statement or counter-evidence in the opposition.

12. The present appeal is disposed of in the aforesaid terms.

13. The Registry is directed to supply a copy of the present order to the office of the Controller General of Patents, Designs and Trademarks of India on the e-mail- *llc-ipo@gov.in* for compliance.

14. It is reiterated that the Court has not examined the merits of the matter and the Deputy Registrar shall decide the matter independently in accordance with law.

15. It is made clear that the aforesaid order has been passed in the peculiar facts and circumstances of the present case and will not be treated



as a precedent.

MAY 15, 2025

Vivek/-

AMIT BANSAL, J