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

+ **C.A.(COMM.IPD-TM) 46/2025 & I.A. 19417/2025**

KAIRA DISTRICT COOPERATIVE MILK PRODUCERS UNION LTD
.....Appellant

Through: Mr. Vishal Nagpal, Mr. Debjyoti Sarkar, Ms. S. Majumdar and Mr. Balkrishan Singh, Advocates

versus

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

Through: Ms. Nidhi Raman, CGSC with Mr. Om Ram and Mr. Arnav Mittal, Advocates for R-1
Mr. Sudarshan Kumar Bansal (through vc), Mr. Shivendra Pratap Singh, Ms. Namrata Jain and Ms. Yashika Gupta, Advocates for R-2

CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER
19.09.2025

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1. This petition has been filed seeking to set aside the order dated 24.04.2025 which dismissed the Appellant's Opposition No. 1298974 filed to Respondent No. 2's trademark application no. 4674348 in Class 30 for the mark 'DOODH'.

2. The reliefs sought in this appeal are set out as below:

"11. **Prayer:** In view of the aforesaid grounds, the Appellant humbly prays for:

"a. An order setting aside the impugned order dated April 24, 2025, dismissing Appellant's Opposition No. 1298974 to



Respondent No.2's trademark application no. 4674348 in Class 30 for the impugned trademark;

b. An order reviving Appellant's Opposition No. 1298974 to Respondent No.2's trademark application no. 4674348 in Class 30 for the impugned trademark;

c. An order remanding Appellant's Opposition No. 1298974 to Respondent No.2's trademark application no. 4674348 in Class 30 for the impugned trademark to Respondent No.1 for adjudication;

d. An order cancelling Respondent No.2's trade mark registration no. 4674348 in Class 30 for the impugned trademark;

e. Such further and other order or orders as this Hon'ble Court may deem fit and proper."

3. Learned counsel for the Appellant states that the Appellant had filed its Notice of Opposition on 10.04.2024 and had received a notice from the Registrar on 15.09.2024 through e-mail calling upon him to submit his evidence in support of the opposition.

3.1 He states that therefore, the period of two (2) months as stipulated under Rule 45(1) of the Trade Marks Rules, 2017 would have commenced on 15.09.2024 and lapsed on 15.11.2024.

3.2 He states that the Appellant had duly filed its evidence in support of the opposition with the Registrar on 14.11.2024 and shared it with the Respondent No. 2 on 13.11.2024. He states that the evidence in support of the opposition was sent through speed post on 11.11.2024.

3.3 He states that however, the Registrar in its impugned order dated 24.04.2025 has erroneously recorded that since the evidence affidavit was not filed within the time prescribed, the opposition has been dismissed.

4. Ms. Nidhi Raman, learned counsel for the Respondent No.1/Registrar of Trade Marks states that the notice in these proceedings was issued on



11.08.2025.

4.1 She states that written submissions have been filed. She confirms that the letter dated 11.09.2024 addressed to the Appellant calling upon it to file evidence in support of opposition was sent vide e-mail dated 15.09.2024. She states that the letter was accessible on the link embedded in the said e-mail.

4.2 She, fairly, concedes that the evidence statement was received by the registrar on 14.11.2024.

4.3 She clarifies that the date of 11.09.2024 mentioned in the notice is the date of the letter and not the date of the service. She states that service was affected through email on 15.09.2024.

5. Mr. Bansal, learned counsel for Respondent No. 2 states that in view of the submissions made by Respondent No. 1, Respondent No. 2 is unable to rebut the factual assertion that the 11.09.2024 notice was served on the Appellant only by email on 15.09.2024. He states that, however, this unusual circumstance has caused prejudice to Respondent No. 2, who has been granted registration in its favour.

5.1 He confirms that Respondent No. 2 received the evidence in support of opposition filed by the Appellant, on 13.11.2024.

5.2 He prays that to balance the equities between the parties; the Registrar may be directed to hold a time bound hearing of the opposition filed by the Appellant.

6. This Court has heard the learned counsels for the parties and perused the record.

7. Having perused the written submissions filed by Respondent No. 1, it is evident from the record of the Registrar that the Appellant received the



notice for filing its evidence in support of opposition only through e-mail on 15.09.2024.

8. In these facts, the service of the evidence affidavit on Respondent Nos. 1 and 2 was within the prescribed period of two (2) months and, therefore, the observation of the Registrar in its hearing notice and in the impugned order that the Appellant had failed to file its evidence affidavit is contrary to the record, being violative of Rule 45(1) of the Trade Marks Rules, 2017 and the settled principle that limitation commences from the date of actual service of notice.

9. The error in the order appears to have crept in as the letter addressed to the appellant is dated 11.09.2024, however its service was only affected on 15.09.2024.

10. In view of the aforementioned facts, the impugned order is hereby set aside.

11. However, to balance the rights of Respondent No. 2, the Registrar is directed to hear and decide the opposition of the Appellant within two (2) months from today.

12. Learned counsel for Respondent No. 1 is directed to communicate the order to the Registrar forthwith. Learned Registrar is requested to issue a hearing notice to the parties preferably within two (2) weeks from today.

13. It is made clear that the learned Registrar is requested not to grant any adjournment to either party and in case, either party elects to remain absent at the hearing, the Registrar will be at liberty to not grant an adjournment and to hear and decide the opposition on the basis of the record.

14. With the aforesaid directions, appeal is allowed and all reliefs are hereby granted.



15. Since, the relief sought in terms of prayer clause (d) for cancellation of Respondent No. 2's registration has been allowed; the Trademark registry is directed to update its record within two (2) weeks to show the correct status of T.M APPL No. 4674348.

16. It is made clear that nothing said in this order is an expression of opinion on the merits of the opposition filed by the Appellant and the same will be decided by the learned Registrar on its own merits and in accordance with law.

17. Pending applications stand disposed of.

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 19, 2025/msh/AM