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

+ **C.A.(COMM.IPD-TM) 60/2025 & I.A. 22422/2025**

SUNIL JAIN

.....Appellant

Through: Ms. Swati Sukumar, Sr Adv with
Kushal Chaudhary, Adv.

versus

REGISTRAR OF TRADEMARKS & ANR.Respondents

Through: Ms. Nidhi Raman, CGSC, Mr. Om
Ram & Mr. Mayank Sansanwal,
Advocates for R-1.

Mohd. Bilal and Mr. Rahul Kumar,
Advocates for R-2.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **17.12.2025**

**C.A.(COMM.IPD-TM) 60/2025 and I.A. 22422/2025 (under Order
XXXIX Rule 1 and 2 CPC)**

1. This appeal has been filed seeking the setting aside of the impugned order dated 17.06.2025, passed by the Registrar of Trademarks in opposition no. 1357319 filed against TM No. 6480151.

2. The case set up in the appeal is as follows: -

2.1. The appellant is the sole proprietor of M/s Mahaveera Wirenetting Industries. It imports and exports wire weaving and wire welding machines.

2.2. Respondent No.2 is the sole proprietor of M/s SAHRI Veera Industries, and is engaged in the business of manufacturing wire mesh and wire mesh manufacturing machinery.



2.3. The appellant and respondent no. 2 are brothers who initially carried on business under the trade name M/s Shree Veera Industries after the demise of their father. Thereafter, Respondent No. 2 became the sole proprietor of the said concern. Subsequently, in 2004, the appellant incorporated M/S Mahaveera Wirenetting Industries and became its sole proprietor.

2.4. In 2013, both parties started using the common brand name ‘Secure



Fencing’. It is stated that simultaneously, the brothers were also selling their products under a different trade name, i.e., ‘Kisaan Jaali and Fencing’.

2.5. In 2019, pursuant to an oral family settlement, both parties decided



that the appellant shall take over the brand name ‘Secure Fencing’/ , whereas, respondent no.2 shall take over the brand name ‘Kisaan Jaali and Fencing’, both being in class 7. Accordingly, they applied for trademark registrations for their respective brand.

2.6. Without the knowledge of the appellant, respondent no. 2 obtained multiple registrations for the mark ‘Secure Fencing’. In one such registration, namely T.M. No. 5350849, respondent no. 2 vide its reply dated 20.05.2022, expressly admitted the appellant’s exclusive ownership of the mark ‘Secure Fencing’.

2.7. Thereafter, Respondent No. 2 again filed an application dated



SECURE
FENCING

14.06.2024 for registration of a device mark in Class 7, bearing TMA No. 6480151, claiming user since 21.08.2013, which was advertised.

2.8. On becoming aware, the appellant filed an opposition bearing no. 1357319 to TMA no. 6480151.

3. Ms. Swati Sukumar, learned senior counsel for the appellant, states that in the impugned order, the sole reason for dismissing the opposition filed by the appellant was the non-appearance of the appellant's attorney at the hearing dated 17.06.2025.

3.1. She states that the appellant herein was instructed by its attorney that an adjournment had been prayed for the hearing scheduled on 17.06.2025, and in these facts, the appellant was unrepresented at the hearing.

3.2. She submits that the hearing officer, having rejected the application seeking adjournment, ought to have given an opportunity to the appellant to remain personally present or change its attorney so that the matter could have been decided on the merits.

3.3. She clarifies on instructions that the appellant is not pressing for the relief of a change of hearing officer [as prayed for in the application dated 11.06.2025] and is ready and willing to appear before the hearing officer who conducted the proceedings on 17.06.2025.

3.4. She states on instructions that the appellant will not pursue any litigation against respondent no. 2 with respect to the use of the impugned mark until the opposition is decided on the merits by the hearing officer.



3.5. She states that the appellant believes that it has reasonably good cause on merits, especially keeping in view the admissions of respondent no. 2 available on record of the trademark registry admitting the exclusive ownership of the impugned mark by the appellant herein.

4. In response, learned counsel for the respondent no. 2 states that there is no dispute that the reply dated 20.05.2022 filed in T.M. no. 5350849 was issued under the instructions of respondent no. 2.

He states, however, that respondent no. 2 has a reasonable defence and an explanation to the issuance of the said reply.

4.1. He further submits that the conduct of the appellant's attorney in seeking adjournments on successive dates, i.e., 17.04.2025 and 17.06.2025, shows lack of bona fides and an intent to delay the registration proceedings. Accordingly, the hearing officer rightly exercised jurisdiction in closing the right of the appellant.

5. This Court has heard the learned counsel for the parties.

6. Though this Court does not condone the conduct of the appellant's attorney in attempting to browbeat the Registry while seeking an adjournment on 17.06.2025, however, since the same has resulted in a default order being passed against the appellant, and considering the fact that the appellant has placed on record material documents recording admissions of respondent no. 2 vis-à-vis appellant's right to use Secure



Fencing, which require adjudication; this Court is of the view that the opposition filed by the appellant deserves to be considered on merits.

7. The impugned order dated 17.06.2025 is set aside with the following directions: -



7.1. The hearing will be conducted by the hearing officer within six [6] weeks, after giving a notice of hearing to the appellant and respondent no. 2 within two [2] weeks from today.

7.2. In case the appellant fails to appear at the hearing date, the hearing officer will be at liberty to decide the matter on the merits, and no adjournment will be granted to the appellant for the said hearing.

8. In the meantime, until the final decision of the opposition application, the appellant herein will not initiate any proceedings against respondent no. 2 for the use of the impugned mark.

9. The petition is allowed and disposed of, subject to the appellant paying cost of Rs. 25,000/- to the Delhi High Court Legal Services Committee [DHCLSC].

10. Learned counsel appearing for respondent no.1 will communicate this order to the Registrar for information and compliance.

11. Accordingly, the appeal and application are disposed of.

12. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J
DECEMBER 17, 2025/mt/aa