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

+ C.O. (COMM.IPD-TM) 213/2023 & I.A. 18064/2023

SURINDER DUREJA TRADING AS S K SPORTSPetitioner

Through: Mr. Junaid Alam, Advocate
(M:8860888011)

versus

SACHIN PROPRIETOR OF BHIRMI ENTERPRISES & ANR.

.....Respondents

Through: Ms. Sonia Sharma, Advocate

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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27.02.2025

1. The present cancellation petition has been filed seeking removal of the respondent no. 1's trademark "SHIVCHARAN" bearing Registration No. 5494975 in Class 25 from the Register of Trademarks for being identical to the petitioner's trademark "SHIVCHARAN".
2. When the matter was listed for hearing on 24th February, 2025, this Court had noted as follows:

"1. Learned counsel for respondent no. 1 submits that respondent no. 1 has not used the trademark, i.e., "SHIVCHARAN" bearing registration no. 5494975, in Class 25, ever since its registration.

2. She further submits that respondent no. 1 has got registration in Class 25 while the petitioner's trademark is registered in Class 17.

3. In response, learned counsel for the petitioner submits that the petitioner had filed an application for registration of the goods falling in Class 25, as the petitioner is engaged in the business of sportswear and readymade garments under the said mark 'SHIVCHARAN'. The registration inadvertently was given to the petitioner in Class 17, for which the petitioner has already moved an application for correction of registration to be shown under Class 25, instead of Class 17.



4. *Considering the submissions made before this Court, the prior user and also considering the fact that respondent no. 1 has not used the mark in question since the registration, as per the admission of respondent no. 1 itself, this Court is of the view that the petition filed on behalf of the petitioner can be allowed at this stage itself.*

5. *However, learned counsel for respondent no. 1 seeks accommodation for today.*

6. *At request, re-notify on 27th February, 2025.”*

3. Today, learned counsel for respondent no. 1 submits that respondent no. 1 has no objection if the present cancellation petition is allowed, and the mark of the respondent no. 1, is removed from the Register of Trademarks.

4. Accordingly, with the consent of the parties, the mark “SHIVCHARAN” bearing Registration No. 5494975 in Class 25, in the name of respondent no. 1, is hereby cancelled.

5. Registrar of Trademarks is directed to carry out the requisite rectification in its Register.

6. Further, appropriate notification shall also be issued by the Registrar of Trademarks, in this regard.

7. The Registry of this Court is directed to supply a copy of the present order to the Office of the Controller General of Patents, Designs and Trade Marks of India, on E-mail Id: llc-ipo@gov.in, for compliance.

8. The present petition, along with pending application, accordingly stands disposed of.

MINI PUSHKARNA, J

FEBRUARY 27, 2025

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