

IN THE HIGH COURT AT CALCUTTA
INTELLECTUAL PROPERTY RIGHTS DIVISION
ORIGINAL SIDE

Present :

THE HON'BLE JUSTICE ARINDAM MUKHERJEE

IPDCR/12/2022

**RAJKUMAR AGGARWAL, PROPRIETOR OF M/S.PETRO
PRODUCT(TP/30/2020/CR/EZ)**

Vs.

NAND KISHORE BHIMSARIYA AND ANR.

For Applicant : Mr. Sayantan Basu, Sr. Adv.
Mr. Tanmoy Roy, Adv.
.....Advocates

For the Respondent no. 2 : Mr. Sunil Kr. Singhania, Adv.
Mr. Asit De, Adv.
..... Advocates

Heard on : 05.05.2026

Judgement on : **5th May, 2026**

Arindam Mukherjee, J:

1. This is an application seeking rectification of a registration of copyright granted by the respondent no.2 in favour of respondent no.1 under the

provisions of the Copyright Act, 1957 read with the Copyright Rules, 2013 (in short 2013 Rules).

The grounds of objection raised by the applicant who is hereinafter referred to as petitioner are as follows:-

- 1) The respondent no.1 while making an application for registration of his copyright was required to comply with the requirements under Rule 70(6) and 70(9) of the 2013 Rules, which are set out hereinunder for the shake of convenience.

“70(6) – Every application for registration in respect of an artistic work which is used or is capable of being used [in relation to any goods or services], such application shall include a statement to that effect and shall be accompanied by a certificate from the Registrar of Trade Marks referred to in section 3 of the Trade Marks Act, 1999, to the effect that no trade mark identical with or deceptively similar to such artistic work has been registered under that Act in the name of, or that no application has been made under that Act for such registration by, any person other than the applicant.

(9) The person applying for registration shall give notice of his application to every person who claims or has any interest in the subject-matter of the copyright or disputes the rights of the applicant to it.”

- (2) On the application being made, the Registrar of Copyright shall, if no objection to such registration is received by the Registrar of Copyright within 30 days of the receipt of the application, enter the particulars given in the application in the register of Copyrights in accordance with the provisions of Rule 70(10), which is set out hereinunder for convenience.

“70(10) – If no objection to such registration is received by the Registrar of Copyrights within thirty days of the receipt of the application, the Registrar of Copyrights shall, if satisfied about the correctness of the particulars given in the application, enter such particulars in the Register of Copyrights.”

2. It is the further case of the applicant that the respondent no.1 did not comply with the provisions of Rule 70(6) and (9) of the 2013 Rules.
3. The respondent no.1 was specifically aware about the registration of copyright granted in favour of the applicant as far back as in 2009 when the respondent no.1 had applied for rectification of the application for copyright applied by the applicant. The rectification application on behalf of the respondent no.1 was rejected pursuant to which the artistic work of the applicant was registered by the Registrar of Copyright following the provisions of the Copyright Act, 1957 and the Copyright Rules, 1959 prevailing at that point of time. The particulars provided by the applicant in his application was the Registrar of Copyright recorded in the register maintained by the Registrar of Copyright as envisaged under Section 45 of the 1957 Act pursuant to the applicant's application for registration of copy right being allowed.
4. It is also the case of the applicant that despite being requested not to proceed with the registration of their copyright, the respondent no. 1 applied for registration by making an application without giving notice to the petitioner as required under Rule 70 sub-rule 9 of the 2013 Rules.

The petitioner was, therefore, not aware of the application made by the respondent no. 1 and as such could not object to the same within 30 days as provided in Rule 70 (9) of the 2013 Rules.

5. It is further submitted by the applicant that on this ground alone, the application made by the respondent no.1 for registration of his copyright ought to have been rejected. The Registrar of Copyright failed to ascertain such fact and, as such, illegally and unlawfully allowed the registration.
6. It is furthermore submitted by the petitioner that after receiving the application, the Registrar is required to wait for 30 days to receive any objection and if there is no objection made, the Registrar, if satisfied about the correctness of the particulars given by the applicant (the respondent no.1 in the instant case) would enter such particulars in the register of copyright.
7. The Registrar of Copyright, according to the applicant, has also failed to comply with the requirements under the second part of Rule 70(10) of the 2013 Rules. The Copyright Register in the name of the respondent No.1, therefore, according to the petitioner, should be cancelled and/or set aside and the application for the same should also stand rejected for not having complied with the mandatory requirements.
8. On behalf of the Registrar of Copyright (respondent no.2), it is submitted that the obligation under Rule 70(6) and (9) of the 2013 Rules is required to be complied with by the applicant making the application for registering the copyright (in the instant case the respondent no.1). The

respondent no.1 has failed to comply with such mandatory requirements and as such the registration is required to be set aside on that ground alone.

9. It is further submitted on behalf of the respondent no. 2 that an application on being made to the Registrar, the Registrar is only required wait for 30 days for any objection from the parties who are likely to be affected by such registration to be filed. If no such objection is received within thirty days from the receipt of the application as envisaged under Rule 70(10) of the 2013 Rules, the Registrar has no other option but to enter the particulars in the register of copyright. The Registrar of Copyright has followed this requirement and as such there is no fault on the part of the Registrar. In this context the respondent no.2 relies on a judgment and order delivered by a Single Judge of High Court of Delhi on 8th September, 2025 in **C.O.(COMM.IPD-CR)843/2022 (M/s. New Bharat Overseas -Versus- M/s. Bhagwati Lacto Vegetarian Exports Pvt. Ltd. & Ors).**

10. The respondent no.1 despite being put on notice on several occasions have not appeared before the Court prior to this date. The respondent no.2 also remains unrepresented on this date. The written objection of the respondent no.1 filed before the Copyright Board is on record. It appears from page 259 in the second volume of the paper book filed before this Court that in sub-paragraph (iv) under the heading “parawise reply to counter statement”, the respondent no.1 has admitted

that it was an error on the part of the Registrar in not putting the petitioner on notice. Since the respondent no.1 has chosen not to appear despite being put to notice, the matter is taken up in his absence particularly keeping in mind the matter is required to be dealt with only on interpretation of legal provisions with very little factual involvement.

11. After hearing the parties and considering the materials on record as also the judgment cited at the Bar, I do not fully agree with the submissions made on behalf of the Registrar of Copyright (respondent no.2). It is correct that a person who applies for registration of copyright is required to comply with the provisions of Rule 70(6) and (9) which has a force of law. The rules framed under the authority given by the legislature in the statute has a “statutory flavour” as held in **2011 (11) SCC 702 (Pepsu Road Transport Corporation, Patiala vs. Mandal Singh & Ors.)** by following the ratio laid down in **1975 (1) SCC 421 (Sukhdev Singh & Ors. v. Bhagatram Sardar Singh Raghuvanshi & Anr.)**. The statutory bodies, authorities as well as general public are bound to comply with the terms and condition as laid down in the rules as a legal compulsion since they have an effect as an enactment of a competent legislation though they are subordinate legislation made in exercise of the power conferred by the statute. The rules in the instant case are framed in terms of the authority given under the 1957 Act and as such as a subordinate legislation lays down a legal compulsion. The rules have to be mandatorily adhered to and has to be conjointly read

with the Act itself. Any deviation of the Rules, therefore, has to be construed to be in violation of the statutory provisions.

12. It is also well settled principles as laid down in ***Nazir Ahmed-Versus Emperor*** reported in ***1936 Privy Council 253*** and subsequently followed by the Supreme Court in several of its judgment one of which is reported in ***1975 (1) SCC 559 (Ramchandra Keshav Adke & Ors. vs. Govind Joti Chavare & Ors.)*** if a statute provides for doing a thing in a particular manner it has to be done in that manner or should not be done at all. It is correct that there is a violation of the provisions of Rule 70(9) by the respondent no.1 while applying for registration of this copyright at the same time by applying such principles laid down in Nazir Ahmed (supra) to the facts of the instant case, the procedural irregularity committed by the Registrar in granting the registration cannot also be ignored. The irregularity is of such nature that the registration granted in favour of the respondent no.1 cannot be cured but is required to be interfered with.

13. Rule 70(10) as set out hereinabove, according to the plain reading, has to disjunct part, which is independent of the other. The first part deals with a situation of not having received an objection by the Registrar of Copyright within thirty days of the receipt of the application allows the Registrar the authority to register the copyright but the second part qualifies the first part imposing a further condition that is satisfaction of the Registrar. The objection, as mentioned in the first part therefore, has

to be read as to its availability with a pre-condition that a person who intends to object should be aware of the fact that the application is offending his rights for which he has to have the notice and knowledge of the application. If the provisions of Rule 70(9) of the 2013 Rules is not complied with by the applicant then a person who on the registration of the copyright will be adversely affected does not ordinarily become aware of such application as a consequence whereof no objection may be filed within the stipulated period of thirty days from the date of application. This opens a window. If a mischievous applicant being aware of the fact that his application is likely to affect someone else adversely does not put him on notice deliberately about his application, then such person may not be aware of application to come forth and object to the same. No receipt of an objection takes us to the next round. On behalf of the Registrar it is argued that on having not received an objection within thirty days the Registrar has no other option but to enter the particulars of the applicant in the register of copyright. This argument is fallacious as Rule 70(10) as pointed out hereinabove has a separate and independent provision which requires the Registrar to be satisfied with the correctness of the application. This is further clear from the provisions of Rule 70(11) of the 2013 Rules which is set out hereunder for the sake of convenience:-

“70(11) If the Registrar of Copyrights receives any objections for such registration within the time specified in [sub-rule (10)], or, if he or

she is not satisfied about the correctness of the particulars given in the application, he or she may, after holding such inquiry as he or she deems fit, enter such particulars of the work in the Register of Copyrights as he or she considers necessary.”

14. It will appear from the said Rule that the same also has two parts.

The first parts deals with a situation where an objection is received by the Registrar. The second part which is disjunct from the first part clearly indicates that, if the Registrar is not satisfied about the correctness of the particulars given in the application he or she may after holding such inquiry as he or she deems fit, enter such particulars of the work in the Register of Copyrights as he or she considers necessary. On a conjoint reading of the two parts of Rule 70(10) with the two parts of Rule 70(11) of the 2013 Rules, the legislative intent is crystal clear. Whether there is an objection or not the registration is subject to the substantive satisfaction of the Registrar of Copyright as to the correctness of the particulars of the application. The correctness includes the statement and declaration made in the application for registration. The Rules also grant an authority to the Registrar to make an inquiry, if necessary to the correctness of the facts. In the instant case when the Registrar did not receive any objection it was necessary for the Registrar to satisfy himself about the correction of the particulars provided by the respondent no.1 (applicant). It is apparent that the Registrar did not even check the register maintained for including the particulars of

registration. Had the Registrar undertook this exercise to satisfy himself as to the correctness of the application, he ought to have noticed the registration in favour of the petitioner. The Registrar then could have called the petitioner and the present situation could have been avoided. The Registrar, then would have informed the petitioner inviting his comments. The matter could have then heard on merits and would not have exposed the order/decision allowing the registration to be challenged only on jurisdictional ground. In the instant case apart from non-compliance of the mandatory provisions of Rule 70(9) by the applicant (respondent no.1), the Registrar has failed to comply with the obligations contained in Rule 70(10) and Rule 70(11) as discussed hereinabove. This failure on the part of the Registrar has opened the gate to the petitioner to challenge the order only on jurisdictional ground thereby burdened the Court with an additional litigation which may not have arisen if the Registrar had carried out the exercise of substantive satisfaction as required under Rules 70(10) and 70(11). The legislative intention as discussed hereinabove is to provide two-tier check valve which has failed in the instant case.

15. Since the order and/or decision of the Registrar of copyright cannot be sustained for the aforesaid reasons, the same is required to be set aside. At the same time remanding the matter back to the Registrar as it is an admitted position that the applicant (respondent no.1) has not complied with the mandatory requirement under Rule 70(9) and the

Registrar has failed to comply with the provisions of Rule 70(10) and 70(11) of the 2013 Rules. This is coupled with an admission of the respondent no.1 that the Registrar committed error in not putting the petitioner on notice.

16. In the aforesaid facts and circumstances, the registration of the copyright of the respondent no.1 is set aside. The Registrar of copyright is directed to remove from the database and the register of copyright the particulars of the registered copyright in the name of the respondent no.1 as recorded therein and de-register the same. The application made by the respondent no.1 on the basis whereof the registration was granted is also rejected for not having complied with the mandatory provisions in the light of the discussions made hereinabove. However, the cancellation of the registration will not stand in the way of the respondent no. 1 in applying afresh after complying with all the statutory formalities/requirements.
17. The application for rectification, therefore, succeeds.
18. IPDCR/12/2022 is, accordingly, disposed of.

(ARINDAM MUKHERJEE, J.)