

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL MISCELLANEOUS PETITION NO. 130 OF 2025

Brunch Beauty Private Limited

...Petitioner

Versus

The Registrar Of Trade Marks

...Respondent

Ms Janhvi Chadha, Ms Aishwarya A.Ms Shruti i/b Mr. Bimal Rajasekhar for
Petitioner.

Mr.Amogh Singh a/w Mr. Ashutosh Misra for Respondent.

CORAM : ARIF S. DOCTOR, J.

DATE : 17th FEBRUARY 2026

P.C.

1. The Petitioner is aggrieved by an Order dated 20th January 2025 passed by the Respondent by which the Petitioner's application for registration of the word mark "*in my defence*" in Class 3 was refused under Section 9(1)(a) of the Trade Marks Act, 1999, read with Rule 25 of the Trade Marks Rules, 2017.

2. The impugned order holds that the mark "*in my defence*" is devoid of any distinctive character and is incapable of distinguishing the Petitioner's products from those of others, since the Petitioner mark is a mere combination of non-distinctive words and the documents which are insufficient to establish

distinctiveness. The impugned order further records that a registrable mark ought to be invented, coined, arbitrary or suggestive in nature, and consequently refused Application No. 5817120.

3. Ms. Chadha, learned counsel appearing for the Petitioner, submitted that the impugned order is wholly unsustainable in law as it is bereft of cogent reasoning and reflects clear non-application of mind. She submitted that though the order invokes Section 9(1)(a), it does not set out any reasoning as to how the expression “*in my defence*” was incapable of distinguishing cosmetic and personal care goods.

4. Learned counsel further contended that the mark is neither descriptive of, nor customary in the trade relating to cosmetics and personal care products. She pointed out that the impugned order does not cite any evidence of common usage, does not assess the mark as a whole, and erroneously proceeds on the premise that a registrable mark must be invented or coined which was not a requirement contemplated by the statute. She also submitted that the Respondent had failed to meaningfully consider the Petitioner’s submissions and documentary evidence and had not provided any reasoning as to why such material was found insufficient to establish inherent or acquired distinctiveness.

5. Ms. Chadha thus submitted that in the absence of any reasoned finding establishing lack of inherent distinctiveness or failure to prove acquired distinctiveness, the impugned order was passed in a mechanical manner and

contrary to well-settled principles governing the assessment of distinctiveness under Section 9 of the Trade Marks Act.

6. Mr. Singh, learned counsel appearing on behalf of the Respondent, opposed the Petition. However, when called upon to indicate the specific reasoning supporting the refusal, he was unable to do so.

7. Having heard learned counsel and having perused the impugned order, there can be no manner of doubt that the same is not only bereft of any reasons but also clearly reflects non-application of mind. In my view there can be no manner of doubt that *"in my defence"* could not have been rejected under Section 9(1)(a) of the Trade Marks Act. The wealth of material upon which reliance has been placed by the Petitioner has been completely ignored by the Respondent. In these circumstances, the matter warrants reconsideration.

8. Accordingly, the following order is passed.

(i) The impugned order dated 20th January 2025 is set aside.

(ii) The matter is remanded to the Registrar of Trade Marks for fresh consideration in accordance with law, after duly considering the Petitioner's submissions and material on record.

(iii) Having regard to the time already elapsed, the Registrar shall endeavour to decide the application within a period of six weeks from the date of receipt of

this order.

9. The Commercial Miscellaneous Petition is accordingly disposed of.

[ARIF S. DOCTOR, J.]