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W.P.No.4673 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2026

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.4673 of 2022

and

W.M.P.No.4794 of 2022

M/s. Soukya Indian Holistic Health Centre Pvt.Ltd

Rep. by its Director

No.202 Parvathi Plaza, 105 Richmond Road

Bengaluru 560 025, Karnataka.

..Petitioner

Vs.

1 The Regional Director

Ministry of Corporate Affairs, A-Block

5th Floor Shastri Bhawan Chennai.

2 M/s. Sowkea Agro and Retail

Concepts Pvt. Ltd No.3-4 Kannappa Nagar

Athanancheri Padappai, Kancheepuram 601 301

Tamil Nadu.

...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus or any other appropriate writ, as the Court may deem fit to quash as arbitrary and illegal the impugned order dated 07.01.2022 passed by the First Respondent in application C.A.05/Sec16/RD(SR)/2020-21 and consequently direct the First Respondent to rectify its Company name



W.P.No.4673 of 2022

For Petitioner : Mr.P.Kabilan for Mr.Thomas T.Jacob

For Respondent-1 : Mr.R.Subramanian
CGSC

For Respondent-2 : Dr.M.Sathya Kumar

Order

Heard Mr.P.Kabilan, learned counsel appearing for the petitioner, Mr.R.Subramanian, learned Central Government Standing Counsel for the first respondent and Dr.M.Sathya Kumar, learned counsel for the second respondent.

2. This Writ Petition is filed seeking for the following prayer:-

To quash the impugned order dated 07.1.2022 passed by the First Respondent in application C.A.05/Sec16/RD(SR)/2020-21 as arbitrary and consequently direct the First Respondent to rectify its Company name.

3. The facts of the case, in brief are as follows:-

i) The petitioner-Company was incorporated in the year 1996 under the name and style M/s. Indian Holistic Health Centre Private Limited; that since 1998, the petitioner-Company has been offering holistic and integrative medicine; that thereafter, in the year 2000, the petitioner coined the word,



W.P.No.4673 of 2022

‘SOUKYA’ and got registered the name ‘Soukya’ as Trademark under the Trade Marks Act, 1999 for their Company,

ii) The petitioner came to know that the second respondent-Company is using the tradename of the petitioner-Company. Therefore, the petitioner-Company filed an Application before the first respondent. The first respondent passed an order dated 07.01.2022 rejecting the petitioner’s application. Challenging the said order, the present Writ Petition is filed.

4. The learned counsel for the petitioner would submit that the petitioner has been diligently and meticulously protecting the value of the trademark and tradename ‘SOUKYA’; that however, the petitioner was contacted by several entitles enquiring as to whether the coconut based products with the branding and tradename ‘SOWKEA’ is from the petitioner-Company or from M/s.SOWKEA Agro and Retail Concepts Pvt. Ltd., viz., the second respondent and whether the second respondent-Company was part of the Petitioner-Company; that upon enquiry, the petitioner-Company came to know that the second respondent-Company was using the tradename of the petitioner-Company trademark by merely altering the spelling



W.P.No.4673 of 2022

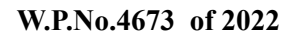
‘SOUKYA’ to ‘SOWKEA’ and has been selling their products on the strength of NOC issued by a Proprietary Firm, M/s.Vignesh Polymers, which had registered the tradename of the petitioner-Company, hence, the petitioner-Company issued a communication to the said M/s.Vignesh Polymers requesting them to refrain from using the trademark ‘SOWKEA’; that M/s.Vignesh Polymers were issuing reply communications denying the request of the petitioner, hence, the petitioner-Company filed an Application under Section 16 of the Companies Act 2013 before the first respondent for issuance of a direction to the second respondent-Company to change their trade name, but, the first respondent, without appreciating the facts of the case in a proper perspective, rejected the petitioner-Company application by the impugned order.

4.1 The learned counsel for the petitioner assailed the impugned order by primarily contending that the petitioner-Company was incorporated in the year 1996 under the name and style M/s.Indian Holistic Health Centre Pvt. Ltd.; that thereafter, in the year 2008, name of the Company was changed as ‘SOUKYA Indian Holistic Health Centre Pvt. Ltd; that the petitioner, in order to protect its brand name and secure hard-earned



W.P.No.4673 of 2022

goodwill and reputation, registered the name, 'SOUKYA' in the year 2000, whereas, the second respondent-Company was only registered in the year 2020 (i.e. on 05.06.2020); that even at the time of registration, no public advertisement was made calling for any objection by the Trademark Registry; that the trademark 'SOWKEA' has not been registered by the second respondent-Company, but was using the said tradename on the strength of the NOC issued by M/s.Vignesh Polymers, which was registered much before the second respondent-Company was incorporated,; that the true nature of business of the petitioner-Company and its prior adoption of the Company name and trademark 'SOUKYA' would clearly show the *mala fide* adoption of 'SOWKEA' as trademark by the Director of the second respondent-Company and the second respondent-Company cannot be permitted to promote its business by mischievously usurping the goodwill and reputation of the petitioner-Company, by trading under the name, 'SOWKEA', which is phonetically similar to that of the petitioner-Company trademark, 'SOUKYA'; that hence, the first respondent ought to allowed the petitioner's application and allowed the application filed by the petitioner. Thus, by averring so, the learned counsel for the petitioner prays for quashing the impugned order.



respondent would submit that the first respondent while deciding merits of the Application under Section 16 of the Companies Act, 2013 has rightly taken into consideration of the two vital aspects, as enshrined under the said Section to i) whether there is any similarity in the name of both the Companies and ii) whether the name of the petitioner-Company too nearly resembles the name of the second respondent-Company, and held that though the pronunciation of the first word 'SOUKYA' and 'SOWKEA' used as trademark by both the Companies are phonetically similar, the first respondent has rightly noticed that the spelling of the two words are different; that further, except, the word 'SOWKEA', the remaining other words of the second respondent-Company, viz., 'Agro and Retail Concepts' are not common when compared to the names of the petitioner-Company; that there are distinguished features in the name of both the Companies and that there is no similarity between the names of the two Companies and arrived at a findings that name of the second respondent-Company, viz., M/s.Sowkea Agro and Retail Concepts Pvt. Ltd., is not identical to that of the petitioner-Company, M/s.SOUKYA Indian Health Centre Pvt. Ltd.; that further, the mode of business carried on by both the petitioner and the second



W.P.No.4673 of 2022

respondent is also different and when the trademark identifies the goods of the proprietor, there is no likelihood of deception or confusion being created in the minds of the general public and rightly rejected the Application.

5.1 It is further contended by the learned Central Government Standing Counsel for the first respondent that though the second respondent has not applied for any trademark registration of the name, 'SOWKEA' as prefix to their Company name, M/s. Sowkea Agro and Retail Concepts Pvt. Ltd., the trademark 'SOWKEA' has been registered by another entity, viz., M/s.Vignesh Polymers, and since the said Proprietary Firm issued NOC to the second respondent-Company on 18.05.2020, for using the trademark, 'SOWKEA', the second respondent-Company, which was incorporated on 05.06.2020 has been selling their products by using the said trademark, that the main objects of the second respondent-Company to carry on the business of selling, reselling, importing, exporting, transporting, storing concessionaires, promoting, marketing, supplying, trading dealing in any manner, whatsoever, in all types of goods on retail as well as on wholesale basis in India or elsewhere; that as far as the petitioner-Company is concerned, which was incorporated on 04.07.1996, their main object is to



W.P.No.4673 of 2022

acquire, establish, maintain one or more Hospital for the reception and treatment of persons suffering from illness, physical and spiritual or emotional and treatment of persons during convalescence; that the petitioner-Company trademark, 'SOUKYA' relates to medicinal products and services, and the name of the second respondent-Company 'SOWKEA' relates to agricultural products, especially, coconut and the first respondent having found that the business verticals and the products of both the petitioner and the second respondent are also different rightly held that the second respondent-Company cannot perform any other business other than the one specified in the Memorandum of Association. Thus, by averring so, the learned Central Government Standing Counsel for the first respondent prays for dismissal of the Writ Petition.

6. The learned counsel for the second respondent also adopted the arguments advanced by the learned Central Government Standing Counsel for the first respondent, *inter alia* contending that the term 'SOWKAEA' is a common name used in many languages, such as Tamil, Telugu, Malayalam, and therefore, the petitioner-Company cannot claim monopoly over a common terms; that further logo used by the second respondent-Company is



W.P.No.4673 of 2022

not similar to that of the petitioner-Company logo, the second respondent-Company has no mens rea to cause any deception in the minds of the general public, and therefore, submitted that the first respondent has rightly rejected the application of the petitioner-Company and the same does not warrant any interference.

7. I have given due consideration to the submissions made on either side and perused the materials placed on record.

8. The issue that falls for consideration in this Writ Petition is as to whether the Order passed by the first respondent dated 07.01.2022 rejecting the Application filed by the petitioner-Company under Section 16 of the Companies Act, 2013 is sustainable or not?

9. The Petitioner-Company filed an Application under Section 16 of the Companies Act, 2013. Therefore, this Court before proceeding to decide the above issue, is of the view that it would be apposite to refer to Section 16 of the said Act, which is extracted as under:-

‘ 16. Rectification of name of company.

—(1) If, through inadvertence or otherwise, a



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W.P.No.4673 of 2022

company on its first registration or on its registration by a new name, is registered by a name which) in the opinion of the Central Government, is identical with or too nearly resembles the name by which a company in existence had been previously registered, whether under this Act or any previous company law, it may direct the company to change its name and the company shall change its name or new name, as the case may be, within a period of three months from the issue of such direction, after adopting an ordinary resolution for the purpose;

(b) on an application by a registered proprietor of a trade mark that the name is identical with or too nearly resembles to a registered trade mark of such proprietor under the Trade Marks Act, 1999 (47 of 1999), made to the Central Government within three years of incorporation or registration or change of name of the company, whether under this Act or any previous company law, in the opinion of the Central Government, is identical with or too nearly resembles to an existing trade mark, it may direct the company to change its name and the company shall change its name or new name, as the case may be, within a 3 [period



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W.P.No.4673 of 2022

of three months] from the issue of such direction, after adopting an ordinary resolution for the purpose. (2) Where a company changes its name or obtains a new name under sub-section (1), it shall within a period of fifteen days from the date of such change, give notice of the change to the Registrar along with the order of the Central Government, who shall carry out necessary changes in the certificate of incorporation and the memorandum. 4 [(3) If a company is in default in complying with any direction given under sub-section (1), the Central Government shall allot a new name to the company in such manner as may be prescribed and the Registrar shall enter the new name in the register of companies in place of the old name and issue a fresh certificate of incorporation with the new name, which the company shall use thereafter: Provided that nothing in this sub-section shall prevent a company from subsequently changing its name in accordance with the provisions of section 13.] 17. Copies of memorandum, articles, etc., to be given to me “



W.P.No.4673 of 2022

10. Thus, a reading of the above provision makes it clear that the first respondent has to find out whether the newly incorporated Company name is identical with or too nearly resembles the name by which a Company is already in existence had been previously registered and that the newly incorporated Company consists tradename that is identical with or too nearly resembles to a registered trademark of such proprietor under the Trademarks Act, 1999.

11. In the case on hand, the petitioner-Company has been using the trademark, 'SOUKYA' since 2000 and the second respondent-Company has been in use of the trademark, 'SOWKEA' since 2018. As per the trademark certificates submitted before the first respondent, it is noticed by the first respondent that the trademark of the second respondent-Company 'SOWKEA' is registered in the name of R.B.Sivakumar, who was trading as M/s.Vignesh Polymers and based on the NOC issued by the said Proprietor dated 18.05.2020, the second respondent-Company has been using the trademark, 'SOWKEA' as first part of their Company name, viz M/s. Sowkea Agro and Retail Concepts Pvt. Ltd. Though the first part of the both the Companies name starts with the word, 'SOUKYA' and 'SOWKEA',



W.P.No.4673 of 2022

which are phonetically similar, the other words attached to their Companies names shows their dissimilarity, as the petitioner-Company's name is 'M/s.SOUKYA Indian Holistic Health Centre Pvt. Ltd and the second respondent-Company's name is M/s. Sowkea Agro and Retail Concepts Pvt. Ltd .

11.1 The petitioner-Company name bears the seven words, viz., 'M/s. SOUKYA Indian Holistic Health Centre Pvt. Ltd. Similarly, the second respondent-Company's name contains seven words, viz., M/s. Sowkea Agro and Retail Concepts Pvt. Ltd. Thus, except, the first word, 'SOUKYA' and 'SOWKEA' used as trademark by both the Companies, the other words attached to the said tradename are not common in both the Companies and therefore, rightly held that there are distinguished features in the name of both the Companies.

11.2 Though it is the contention of the learned counsel for the petitioner-Company that the words, 'SOUKYA' and 'SOWKEA' are phonetically similar, the first respondent has rightly noticed the difference in the spelling of the two words. Further, the mode of business carried on by



W.P.No.4673 of 2022

both the petitioner and the second respondent is also different. The petitioner-Company is engaged in the business of medicine, whereas, the second respondent-Company is carrying on business of buying and selling all types of retail goods.

11.3 Thus, the first respondent in terms of Section 16 of the Companies Act, 2013 has rightly examined the issues in a proper perspective and held that the trademark of both the Companies identifies the goods of the proprietor; that there is no likelihood of deception or confusion being created in the minds of the general public, and rightly rejected the Application filed by the petitioner-Company by holding that the name of the second respondent-Company, viz., M/s.Sowkea Agro and Retail Concepts Pvt. Ltd., is not identical to that of the petitioner-Company, M/s.SOUKYA Indian Health Centre Pvt. Ltd.

11.4 Both the words, 'SOUKYA' as well as 'SOUKEA' are registered trademarks of the petitioner-Company and second respondent-Company respectively, and hence, both the petitioner and the second respondent are claiming their exclusive rights over their respective names. Unless and



otherwise, any steps is taken revoke the trademark obtained by the respective parties, no interference can be made with regard to the registration of Company by the second respondent

11.5 Further, the petitioner's Company is situated at Karnataka, whereas, the second respondent's Company is situated in Tamil Nadu. Since the Companies are situated at different States, their business is also restricted within those States. In such case, by taking into consideration of all these aspects, the Regional Director had right rejected the petitioner's submission.

11.6 Further, as rightly pointed out by the learned counsel for the second respondent, term '**SOWKEA**' is a common name used in many languages, such as Tamil, Telugu, Malayalam, and therefore, the petitioner-Company cannot claim monopoly over a common term; that further logo used by the second respondent-Company is also not similar to that of the petitioner-Company's logo. This Court is able to see the difference in the logo used by both the Companies, which are depicted infra under the caption 'A-' and 'B', which per se would prove that there is no *mens rea* on the part of the second respondent-Company to deceive or hoodwink the general



W.P.No.4673 of 2022

public by the alleged use of the petitioner's Trademark and that there is clear dissimilarity between the trademarks, logo, business operations of two Companies.

‘A’ Second Respondent's Company Logo



‘B’ Petitioner-Company Logo



11.7 This Court does not find any infirmity or illegality or discrimination in the impugned order passed by the first respondent, thereby, the rejecting the application filed under Section 16 of the Companies Act, 2013.



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W.P.No.4673 of 2022
Krishnan Ramasamy,J.,

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12. In the result, this Writ Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

09.03.2026

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Index : yes/no

Neutral Citation : yes/no

To

- 1 The Regional Director
Ministry of Corporate Affairs, A-Block
5th Floor Shastri Bhawan Chennai.
- 2 M/s. Sowkea Agro and Retail
Concepts Pvt. Ltd No.3-4 Kannappa Nagar
Athanancheri Padappai, Kancheepuram 601 301
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W.P.No.4673 of 2022

09.03.2026