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C.M.A. (TM) No.4 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2025

CORAM :

The Hon'ble Mr.Justice SENTHILKUMAR RAMAMOORTHY

C.M.A. (TM) No.4 of 2024

Saranya Parthiban
9/1A, Vivekananda Nagar, Singanallur,
Coimbatore, Tamilnadu-641005.

.. Appellant

Vs

Registrar of Trade Marks
Trade Mark Registry, Intellectual Property Office
Building, GST Road, Guindy, Chennai-600032,
Tamilnadu.

.. Respondent

Appeal filed under Section 91 of the Trade Marks Act, 1999 to set aside the order dated 19.12.2023 passed in Application No.5150499 by the Registrar of Trade Marks.

For Appellant: Mr. Kunal Khanna
For S.Sachin Priya Daniel
For M/s. S. Suresh Kumar

For Respondent(s): Mr.S.N.Parthasarathi,
Senior Stdg. Counsel for Central Govt.

* * * * *



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JUDGMENT

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This appeal is directed against the order dated 19.12.2023 rejecting Application No.5150499 for registration of the Word Mark 'RAW SKINN'.

2. The said application was filed by the appellant on 27.09.2021 in Class 3 in relation to bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; non-medicated soaps; perfumery, essential oils, non-medicated cosmetics, non-medicated hair lotions; non-medicated dentifrices. The application was presented by asserting use since 17.08.2021 in respect of the above mentioned goods. By examination report dated 26.10.2021, the respondent raised objection under Section 9(1)(b) of the Trade Marks Act, 1999 (hereinafter referred to as 'the TM Act') on the ground that the mark consists exclusively of words or indications which may serve in trade to designate the intended purpose or other characteristics of the goods. The appellant responded to the examination report on 11.11.2021. In the reply, the appellant asserted that the Trade Mark is arbitrary. The appellant expressly stated that the mark has no connection to the goods in respect of which it is applied. After setting out the goods in relation to which the mark is applied, the appellant also referred



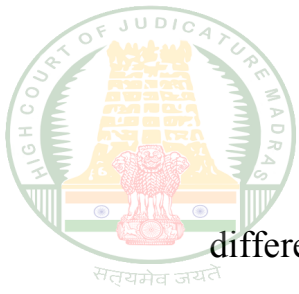
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to and relied upon several judgments. The impugned order was issued in these facts and circumstances.

3. Learned counsel for the appellant invited my attention to the application and to evidence of use of the mark in the form of tax invoices issued by the appellant. He also contended that the appellant's Trade Mark is certainly not descriptive and that it would qualify as arbitrary or inventive or, at a minimum, as suggestive. Therefore, he contends that the impugned order cannot be sustained.

4. In response to these contentions, learned counsel for the respondent states that the appellant's Trade Mark is intended for use *inter alia* on human's skin. Therefore, he submits that the Trade Mark is descriptive and that no interference with the impugned order is warranted.

5. The Trade Mark application discloses that the appellant applies the mark in relation to a range of products in Class 3. These products include bleaching preparations, non-medicated soaps and lotions. The invoices placed on record by the appellant disclose that the appellant is selling



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different types of soap, body butter, scrubs and the like under the Trade Mark 'RAW SKINN'. The placement of a Trade Mark in the spectrum of distinctiveness cannot be done in isolation and is always required to be done in the specific context of the goods and services to which the relevant mark is applied. In the case at hand, it cannot be concluded, *prima facie*, that the mark is arbitrary. At the same time, in relation to these goods, it appears that the mark is suggestive rather than descriptive.

6. In the examination report, apart from the objections under Section 9(1)(b) of the TM Act, no other objection was raised. In particular, no conflicting mark was cited in such report. In the impugned order, the respondent has referred to the classification of Trade Marks as inventive, arbitrary and suggestive, cited a judgment of the Bombay High Court and recorded the conclusion that the Trade Mark is descriptive. The contentions of the appellant have not been discussed and no reasons are recorded for rejecting the same.

7. Therefore, the impugned order dated 19.12.2023 is set aside and the appeal is allowed. It is directed that the application shall proceed for



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advertisement. It is made clear that this order will not be binding on
opponents, if any. No costs.

27.02.2025

Index : Yes/No
NC : Yes/No
Speaking/Non-speaking Order

sra

To

The Registrar of Trade Marks
Trade Mark Registry,
Intellectual Property Office Building,
GST Road, Guindy, Chennai-600032, Tamilnadu



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Senthilkumar Ramamoorthy, J.

(sra)

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