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

Date of decision:-30th October, 2023.

\+ **C.A.(COMM.IPD-TM) 96/2022**

SACHDEVA SONS INDUSTRIES PVT LTD.
NEAR SANGRANA SAHIB VILLAGE AND
POST OFFICE GILWALI, TARN TARAN ROAD,
AMRITSAR, PUNJAB. ..... Appellant

Through: None.

Versus

DEPUTY REGISTRAR OF TRADE MARKS,
IP BUILDING, SECTOR-14, DWARKA,
NEW DELHI ..... Respondent

Through: Mr. Harish V. Shankar, CGSC, Mr. Srish Kumar Mishra, Mr. Sagar Mehlawat, Mr. Alexander Mathai Paikaday & Mr. M. Sriram & Mr. Krishnan V., Advs.

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\+ **C.A.(COMM.IPD-TM) 97/2022**

SACHDEVA AND SONS INSUSTRIES
PRIVATE LIMITED ..... Appellant

Through: None.

Versus

DEPUTY REGISTRAR OF TRADE
MARKS AND ORS ..... Respondents

Through: Mr. Harish V. Shankar, CGSC, Mr. Srish Kumar Mishra, Mr. Sagar Mehlawat, Mr. Alexander Mathai Paikaday & Mr. M. Sriram & Mr. Krishnan V., Advs.

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CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode.

2. None appears for the Petitioner. There has been no appearance for the last several hearings.

3. The present two appeals under Section 91 of the Trade Marks Act, 1999 have been filed by the Appellant-Sachdeva Sons Industries Pvt. Ltd. challenging the impugned order dated 3rd September, 2014 passed by the Respondent- Deputy Registrar of Trade Marks. The trade mark applications involved in the present appeals are as follows:

Application no.	***Class***	***Date of Application***	***Applicant***	***TM-16 applicant***
585668 in ***C.A.(COMM.IPD-TM) 96/2022***	*30*	*25th November, 1992*	*Mahaveer Rice Traders*	*M/s. Jain Riceland*
781851 in ***C.A.(COMM.IPD-TM) 97/2022***	*30*	*11th December, 1997*	*Paras Trading Co.*	

4. In both the appeals, vide the impugned order, the TM-16 under Section 22 of the Trade Marks Act, 1999 filed by the TM-16 Applicant-M/s. Jain Riceland on 9th April 2012 for substituting the name of M/s Jain Riceland Pvt. Ltd. has been allowed by the Respondent-Deputy Registrar of Trademarks.

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5. In ***C.A.(COMM.IPD-TM) 96/2022,*** Applicant-M/s Mahaveer Rice Traders, 1783-A, Naya Bazar, Delhi-110006 filed an application for registration of the mark 'PHOOLPARI' bearing application no.585668 dated 25th November, 1992 in Class 30. The trademark journal extract reads as under:

> *"**585668** - November 25, 1992. BHUPENDER JAIN, trading as MAHAVEER RICE TRADERS; 1783-A, Naya Bazar, Delhi - 110006. Manufacturers, Merchants, Traders and Dealers. Proposed to be used. (DELHI)*"

6. In ***C.A.(COMM.IPD-TM) 97/2022,*** Applicant- Paras Trading Co. filed an application for registration of the mark 'ROYAL' bearing application no. 781851 dated 11th December 1997 in Class 30.

7. The said marks 'PHOOLPARI' and 'ROYAL' were opposed by the Appellant-Sachdeva & Sons Industries Private Limited vide opposition no. DEL-T-1569/54830 dated 17th January, 2000 and vide opposition no. DEL-146271 dated 3rd December 2003 respectively. In both the said opposition proceedings, a TM-16 application was filed by M/s Jain Riceland Pvt. Ltd. dated 9th April, 2012, for amendment of the respective applications in their name.

8. In ***C.A.(COMM.IPD-TM) 96/2022,*** the said M/s Jain Riceland Pvt. Ltd. relied upon an assignment deed dated 2nd April, 2012 by which Applicant-M/s Mahaveer Rice Traders through the sole proprietor - Mr. Bhupinder Jain had assigned the trademark 'PHOOLPARI' with its pending application, along with other pending applications to M/s Jain Riceland Pvt. Ltd. On this TM-16, submissions were heard and vide impugned order the same was allowed with the following observations:

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"The applicant has preferred in the Application on TM-16 filed on 09/04/2012 that the name of JAIN RICELAND PVT. LTD. 1783, Naya Bazar, Delhi - 110006 be entered in the Application as proprietor of the trade mark applied for registration pending before this Tribunal, by virtue of an Deed of Assignment executed on 02/04/2012 by M/s Mahaveer Rice Traders through Shri Bhupinder Jain and by allowing the amendment/substitution of Applicant's name, the nature and interest of the Opponent is not going to be changed or prejudiced in any manner, as they have filed Notice of Opposition to application for registration of trade mark and if the same is proceeded either in the name of Mahaveer Rice Trader or JAIN RICELAND PVT. LTD., the opponents grievance would remain the same and uninterrupted, ***therefore, the interest of justice would be served in allowing the application to avoid multiplicity of proceedings and the opponent would be entitled to raise all the objections at the time of merit of the case and during the course of the hearing of the proceedings. In my view, no prejudice would be caused to the opponent if the TM-16 filed on 09/04/2012 for amendment of application is allowed****. Of course, the opponent is entitled to be compensated with cost for the inconvenience and expenses occasioned.*

Therefore, the request filed on Form TM-16 dated 09/04/2012 for amendment of Application No.585668 in class 30 in the name of JAIN RICELAND PVT. LTD., 1783, Naya Bazar, Delhi -110006 is allowed, subject to cost of Rs. 2,500/- to be payable by the Applicant to the Opponent within Ten days from the date of receipt of this order."

9. In ***C.A.(COMM.IPD-TM) 97/2022,*** the said M/s Jain Riceland Pvt. Ltd. relied upon an assignment deed dated 2nd April, 2012 by which Applicant-Paras Traders had assigned the trademark 'ROYAL' with its

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pending application, along with other pending applications to M/s Jain Riceland Pvt. Ltd. On this TM-16, submissions were heard and vide impugned order the same was allowed with the following observations:

> *"The applicant has preferred in the Application on TM-16 filed on 9th April 2012 that the name of JAIN RICELAND PVT. LTD. 1783, Naya Bazar, Delhi-110006 be entered in the Application as proprietor of the trade mark applied for registration pending before this Tribunal, by virtue of an Deed of Assignment executed on 02/04/2012 by M/s Paras Trading Company and by allowing the amendment/substitution of Applicant's name, the nature and interest of the Opponent is not going to be changed or prejudiced in any manner, as they have filed Notice of Opposition to application for registration of trade mark and if the same is proceeded either in the name of M/s Paras Trading Company or M/s JAIN RICELAND PVT. LTD., the opponents grievance would remain the same and uninterrupted, therefore, the interest of justice would be served in allowing the application to avoid multiplicity of proceedings and the opponent would be entitled to raise all the objections at the time of merit of the case and during the course of the hearing of the proceedings. In my view, no prejudice would be caused to the opponent if the TM- 16 filed on 09/04/2012 for amendment of application is allowed. Of course, the opponent is entitled to be compensated with cost for the inconvenience and expenses occasioned. Therefore, the request filed on Form TM-16 dated 09/04/2012 for amendment of Application No.781851.in class 30 in the name of JAIN RICELAND PVT. LTD., 1783, Naya Bazar, Delhi -110006 is hereby allowed, subject to cost of Rs. 2,500/- to be payable by the*

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Applicant to the Opponent within Ten days from the date of receipt of this order."

10. The present appeals were, initially, filed before the IPAB way back in 2014, and after the Tribunals Reforms Act, 2021, these two matters have been transferred to the High Court of Delhi.

11. A perusal of the order sheet of the ld. Joint Registrar and of this Court shows that repeated notices have been issued to the Appellant, however, there is no appearance. Vide order dated 10th October 2023, it has been recorded that Appellant has not appeared in the present appeals since 30th May 2022.

12. Clearly, the Appellant has not taken any steps to pursue the present appeals.

13. In any case, the appeals are also directed only against allowing of TM-16 application, whereas the final opposition filed by the Appellant is not affected by the impugned order. The impugned order safeguards the interest of the Appellants by keeping the contentions on merits open, to be urged at the final stage.

14. The Appeals are accordingly dismissed. The opposition proceedings, if not already decided, may proceed further before the Registrar of Trademarks. No further orders are called for.

PRATHIBA M. SINGH
JUDGE

OCTOBER 30, 2023
dj/dn

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