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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2024

CORAM

MR.JUSTICE N.SESHASAYEE

(T)CMA(PT)/143/2023
(OA/7/2019/PT/CHN)

F.HOFFMANN-LA ROCHE AG
124 Grenzacherstrasse
CH-4070 Basel
Switzerland
Nationality: Switzerland ... Appellant

Vs.

Deputy Controller of Patents and Designs
Government of India, Patent Office
Intellectual Property Rights Building
GST Road, Guindy, Chennai 600 032 ... Respondent

PRAYER: Transfer Civil Miscellaneous Appeal (Patents) is filed under Sections 117 A of the Indian Patents Act, 1970, praying to set aside the impugned order dated 02 April 2019 passed by the respondent i.e. Deputy Controller of Patents and Designs, Chennai in respect of Patent Application No.1401/CHENP/2008 and the Patent Application No.1401/CHENP/2008.

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For Appellant : Mr.P.V.Balasubramanian
for M/s.De Penning De Penning

For Respondent : Mr.Rajesh Vivekanandan
Deputy Solicitor General

JUDGMENT

The appellant herein challenges the proceedings of the Patent Controller dated 02.04.2019 vis-a-vis the invention for which patent was refused by him on two grounds:

a) as regards the specifications and the technical objection taken by the Controller to the claims of the appellant; and

b) on the procedural aspect.

2.Heard both sides.

3.The learned counsel for the appellant submits that after the examination, the appellant was heard by the Controller on 10.01.2013, but the impugned order was passed some six years and two months later. This itself does not inspire confidence that the technical objection he has raised for refusing to

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patent the appellant's claim is arbitrary.

4.Since this Court is quite satisfied with an objection raised by the learned counsel for the appellant vis-a-vis the inordinate and inexplicable delay in delivering the impugned proceeding is impressive enough and this Court does not consider it necessary to hear the learned counsel on the technical aspect. What is essential is that whatever that is done judicially or quasi judicially, dealing with the rights of the party must prima facie inspire confidence. That limb of the activity is missing in this case.

5.Hence, this Court chooses to allow this appeal and sets aside the impugned proceedings and remands the matter back to the patent office. The application for patent of appellant's claim will now be considered by another Controller of Patent other than the one who had passed the impugned proceedings dated 02.04.2019.

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N.SESHASAYEE, J.

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6.In the result this appeal stands allowed. There shall be no order as to costs.

09.01.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

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