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

\+ C.A.(COMM.IPD-TM) 144/2022

SINOCHEM INDIA CO. PVT. LTD. ..... Appellant

Through: Mr. Divya Nishant and Ms. Garima Sharma, Advs.

versus

THE REGISTRAR OF TRADEMARKS ..... Respondent

Through: Mr. Srish Kumar Mishra, Mr. Sagar Mehlawat, Mr. Alexender Mathai Paikaday, Advs.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

O R D E R (O R A L)

% 11.01.2023

1. The appellant applied on 3rd April 2019 to the Registrar of trademarks for registration "on a proposed to be used basis" of its trademark "VRRIDHI" under Class 1 for biostimulants. Though, Mr. Divya Nishant, learned Counsel for the appellant submits that the appellant did, thereafter, commence using the mark, he is unable to enlighten the Court as to the date from which such user commenced.

2. Consequent to examination of the appellant's application, the examiner of trademarks, *vide* his Examination Report dated 14th May 2019, objected to the registration of the proposed "VRIDDHI" mark of the appellant, on the ground that a phonetically similar mark, "VRIDDI" already stood registered, consequent to application dated 20th November

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2015, in favour of Rajshree Bi[illegible]ions LLP under Class 1 in respect of "goods/service chemical used in agriculture, horticulture and forestry; bacterial preparations oilier than for medical and veterinary use; bacteriological preparations other than for medical and veterinary use; biological preparations, other than for medical or veterinary purposes; culture of microorganisms other than for medical and veterinary use; preparation of microorganisms other than for medical and veterinary use; vine disease preventing chemicals".

3. The appellant, in its reply dated 6th June 2019, merely stated that the mark "VRIDDI" could not be regarded as deceptively similar to the appellant's "VRRIDHI" mark. It was asserted that, while the appellant was seeking to register its mark for agricultural bio stimulants, the purpose for which the "VRIDDI" mark was being used was not known. "VRRIDHI", it was submitted, was a distinctive word. The appellant also claimed to have earned substantial goodwill in the said mark over a period of time.

4. Apropos use, the appellant submitted, in its reply to the objection of the examiner, that the appellant was unaware as to whether the "VRIDDI" mark of Rajshree Biosolutions was in use or not.

5. Having considered the objections raised by the examiner and the response of the appellant thereto, the impugned order accepts the objections raised by the examiner and rejects the appellant's application for registration of the "VRRIDHI" mark as being identical or similar to the earlier registered "VRIDDI" mark of Rajshree BioSolutions.

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6. Aggrieved, the appellant has approached this Court by means of the present appeal.

7. The marks of the appellant and Rajshree Biosolutions are both word marks. They are, undoubtedly, phonetically similar if not almost identical. The appellant has sought registration of its mark for bio stimulants to be used in agriculture, where as the "VRIDDI" mark of Rajshree Biosolutions stood registered in respect of "goods/service chemical used in agriculture, horticulture and forestry; bacterial preparations oilier than for medical and veterinary use; bacteriological preparations other than for medical and veterinary use; biological preparations, other than for medical or veterinary purposes; culture of microorganisms other than for medical and veterinary use; preparation of microorganisms other than for medical and veterinary use; vine disease preventing chemicals". The goods in respect of which the two marks are being used are, therefore, for like agricultural goods. Both the marks were being sought to be registered for use in agriculture one way or the other.

8. The "VRIDDI" mark of Rajshree Biosolutions was admittedly registered prior in point of time to the application for registration filed by the appellant. The appellant had filed the application on proposed to be used basis. The examination report dated 14th May 2019 of the examiner indicates that, prior to that date, the "VRIDDI" product of Rajshree Biosolutions was available online.

9. Mr. Nishant, learned Counsel for the appellant is not able to

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enlighten the Court regarding the user either by the appellant or by Rajshree Biosolutions of the respective marks.

10. In these circumstances, this Court sees no reason to interfere with the impugned order dated 26th November 2021. The appeal is accordingly bereft of merit and is dismissed, with no order as to costs.

C.HARI SHANKAR, J

JANUARY 11, 2023
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