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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-10-2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

WP(IPD) No. 14 of 2026

CNR:{HCMA011329862026}

Case QR

R.Booma Rani
w/o.Ramesh Anand
2/656, Sadyampatti
Sattur-626 203.

..Petitioner(s)

Vs

The Registrar Of Trade Marks
The Office of the Trade Marks Registry
Intellectual property office building
G.S.T. Road,
Guindy
Chennai-600 032.

..Respondent(s)

PRAYER – This Writ Petition is filed under Article 226 of the Constitution of India, seeking Writ of Mandamus, for a direction to the respondent to permit the petitioner to file renewal application for renewing the Trade Mark THOTHA (HINDI LABEL) registered under number 1532336 in class 34 and renew the same in accordance with due process of law.

For Petitioner(s): Mr.M.MUHUNTHA BALAN

For Respondent(s): Ms. Sushma, Senior Panel Counsel

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ORDER

The petitioner makes safety matches at Sattur under the name Ayyanar Match Works. She owns the trade mark "THOTHA", written in Hindi with the picture of a parrot, used for safety matches. It stands registered in her name under No.1532336 in Class 34. The Trade Marks Registry's online portal will not let her apply to renew this registration. She prays this Court to direct the Registrar of Trade Marks to receive her renewal application and to renew the registration in accordance with law.

2. Notice was ordered. Ms. Sushma, learned Senior Panel Counsel, entered appearance for the respondent and filed a counter affidavit.

3. In her affidavit, the petitioner states as follows. She applied to register the mark on 20.02.2007 through her then trade mark agents. The application was advertised in Trade Marks Journal No.1399 dated 01.09.2008. M/s.Agarwal Gudakha Factory filed Opposition No.733671 on 02.12.2008. Her agents filed the counter statement on 10.02.2009 and her evidence on 06.08.2009. After that, nothing happened for about thirteen years. The first hearing in the opposition was fixed only for 07.11.2022. The opposition was dismissed on 06.02.2023, and the certificate of registration was issued on 07.02.2023, nearly sixteen years

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after she had applied. By then, the first ten-year term of the registration, which counts from the date of application, had already come to an end on 20.02.2017.

4. The petitioner states that during this long gap she lost touch with her former agents, who had told her that all letters from the Registry would be sent only to them. The local body had also changed the door number of her business premises from 2/222 to 2/656, though the premises remained the same. The hearing notice dated 29.12.2022, sent to the old door number, came back undelivered. Neither the order in the opposition nor the certificate of registration reached her. She learned of the registration only on 25.09.2025, through her present counsel.

5. On 27.09.2025, her counsel tried to file the renewal application online, but the portal showed the message "Application cannot be Renewed (Delay of more than 1 year)". When counsel went to the Registry on 06.10.2025, he was told that the time under Rule 58(3) of the Trade Marks Rules, 2017 had expired, and he was advised to write a letter requesting condonation of the delay. She filed such a letter online on 18.11.2025, along with Form TM-P to record her new address. When counsel went again on 23.01.2026, he was told orally that the Registry has no power to condone the delay. She also points out that she had

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applied for a label mark (a word with a picture), but the certificate and the e-Register describe it as a word mark.

6. The petitioner states that she has used the mark since 01.08.1990, and relies on a turnover certificate of a Chartered Accountant dated 27.05.2026. The mark still appears on the register as "Registered", with only an alert that it is "likely to be removed", and no step has been taken to remove it. She relies on the decision of this Court in **Jaisuryas Retail Ventures Pvt. Ltd. v. The Registrar of Trade Marks (2024:MHC:3109),** which held that an application for renewal may be made at any time after the start date fixed by Rule 57(1), so long as the trade mark has not been removed from the register.

7. The respondent, in their counter, admits that the petitioner applied on 20.02.2007, that the opposition was dismissed on 06.02.2023 under Rule 50(4) of the Trade Marks Rules, 2017, and that Certificate No.3157878 was issued on 07.02.2023 and notified in Trade Marks Journal No.2092. Its status is as follows. Hearing notices dated 08.10.2022, 15.11.2022 and 29.12.2022 were sent, but no one appeared for the petitioner. The notice dated 29.12.2022 was returned by the postal department, first with the remark "door locked" and finally as "unclaimed". The petitioner never informed the Registry of any

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change of address. The registration certificate "has been served under Writ Petitioner's Counsel through Email" and was published in the Journal, and while issuing it the Registry informed the applicant of the due date for renewal, that is, six months from the date on which the certificate "was generated and issued". The Act has no provision to condone the delay. At the latest, the petitioner ought to have applied with surcharge by 07.02.2024.

8. The respondent further states that the mark was entered as a word mark because of an inadvertent error has occurred in the data entry process, which could have been corrected if pointed out in time; that the Form TM-P dated 18.11.2025 has become infructuous because the mark was not renewed; that it is not aware of the condonation letter; and that the decision in Jaisuryas does not apply because the certificate was sent to counsel and published in the Journal. At the same time, the counter makes two admissions. It states that no 3rd party is involved in the renewal proceedings to affect the interest, and that as on date the application details show as registered, but the actual status is 'The Trade Mark is likely to be Removed ', and the same will be removed in due course. The respondent prays that the writ petition be dismissed with costs.

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9. In her rejoinder, the petitioner denies that the certificate was ever sent by e-mail. She states that when she applied in 2007 there was no requirement to give an e-mail address, and the e-Register for her mark shows the e-mail column blank. She relies on the Public Notice dated 28.07.2016 of the Controller General of Patents, Designs and Trade Marks. Under that notice, from 01.08.2016 registration certificates were to be generated by an automated system and sent to the e-mail address on record, but only for applications published in Trade Marks Journal No.1720 dated 23.11.2015 and later. Her mark was published much earlier, in Journal No.1399 dated 01.09.2008. She denies that her premises were locked on the dates of the postal attempts, and produces a letter from the Sadayampatti Panchayat stating that her unit has functioned at the same place since 1990, and that the old door number 2/222 was later given the new number 2/656. She also relies on the decision of the Delhi High Court in **Amrit Singh Mehta v. Controller General of Patents, Designs and Trade Marks (2026:DHC:6357).**

10. The Learned counsel for the petitioner submitted that the registration certificate dated 07.02.2023 was only generated in the Registry's system. It was never actually issued or served on the petitioner; the six-month period for renewal could begin only when the certificate reached her, and since it never

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reached her, that period never began to run. It was submitted that the online portal did not allow the petitioner to file her renewal application.

11. It was further submitted that to answer the respondent's claim that the certificate was sent by e-mail, learned counsel took the Court to the extract of the e-Register as on 03.09.2026 (page 29 of the additional typed set). The column "Email Id" in that extract is blank. So the Registry had no e-mail address for the petitioner, and its claim that the certificate was served by e-mail cannot be accepted.

12. It was submitted that under the Public Notice dated 28.07.2016, automated issue of certificates applied only to marks published in Journal No.1720 and later and that the petitioner's mark was published in Journal No.1399. So the certificate could not have been issued through the automated process in this case.

13. It was submitted that the application was filed in 2007, but the certificate was generated only in 2023; the registration ran from 2007 to 2017 and that on renewal, it would run from 2017 to 2027. It was submitted that, because the

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portal would not accept the renewal form, the petitioner could not renew the mark at all.

14. Ms Sushma, learned Senior Panel Counsel for the respondent, contended that the registration certificate had been duly issued to the petitioner through e-mail, and otherwise relied on the counter affidavit.

15. The point for consideration: when a trade mark is registered only after the date on which its first renewal had already fallen due, and the Registrar has not removed it from the register, can the Registrar refuse to receive the renewal application of the registered proprietor on the ground that the time for renewal is over?

16. Section 23(2) of the Trade Marks Act, 1999 ("the Act") requires the Registrar, on registration, to issue to the applicant a certificate. Under Section 25, a registration lasts ten years and may be renewed; each renewal runs for ten years from the expiry of the last registration; the Registrar may remove a mark that is not renewed; and a removed mark may be restored. Rule 57(1) of the Trade Marks Rules, 2017 ("the Rules") fixes only the earliest date for renewal,

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not the last date. Rule 58(3) deals with a mark, like this one, that is registered after its renewal date has already passed:

> "Where, in the case of a trade mark the registration of which (by reference to the date of application for registration) becomes due for renewal, the trade mark is registered after the date of renewal, the registration may be renewed by the payment of the renewal fee within six months of the actual date of registration and where the renewal fee is not paid within that period the Registrar shall, subject to rule 60, remove the trade mark from the register."

17. A removal must be advertised in the Journal under Rule 59, and Rule 60 provides for restoration. Removal is therefore a separate step that the Registrar must take, and take openly.

18. In **Jaisuryas Retail Ventures Pvt. Ltd. v. The Registrar of Trade Marks (2024:MHC:3109),** this Court held that an application for renewal may be made at any time after the start date prescribed in Rule 57(1) if the trade mark has not been removed from the register, and directed the Registrar to give portal access or accept a physical application. In *Amrit Singh Mehta (supra)*, the Delhi High Court, applying the identical Rule 64(3) of the 2002 Rules,

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permitted renewal of a mark registered after its renewal date where the Registry could not show that the certificate had been sent, even though that mark had been removed. Since the two Rules are the same in substance, it is unnecessary to decide the petitioner's alternative plea, based on Rule 158 and ***Mahesh Gupta vs Registrar of Trademark and Anr*** *(2023/DHC/001627)*, that the 2002 Rules govern her application.

19. This Court followed decision of **Jaisuryas in P.G. Purushan v. The Registrar of Trade Marks (W.P.(IPD) No.4 of 2026, decided on 08.04.2026)**, on similar facts.

20. The respondent's claim that the certificate was e-mailed to the petitioner's counsel is not proved. No e-mail address, date or dispatch record is produced. The Registry's own e-Register shows the e-mail column blank. Its own Public Notice dated 28.07.2016 confines e-mailing of certificates to marks published in Journal No.1720 and later, whereas this mark was published in Journal No.1399. And the present counsel came on record only in 2025; the counter does not say that the certificate went to the agents then on record. Publication in the Journal is not issue of the certificate to the applicant under Section 23(2).

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21. More importantly, the mark has not been removed. The only consequence Rule 58(3) attaches to non-payment within six months is removal by the Registrar. More than three and a half years later, that step has not been taken; the counter says only that the mark "will be removed in due course". So long as the mark stands on the register in the petitioner's name, the Registrar cannot refuse her renewal fee. The message on the portal is not an order under the Act. The decision in ***Jaisuryas*** therefore applies squarely.

22. This conclusion does not depend on accepting the argument of learned counsel for the petitioner that the six months run only from receipt of the certificate. Rule 58(3) counts them from the actual date of registration. Even so counted, the six months ended without the removal that the Rule requires. Nor is this Court condoning delay. It holds only that no time bar operates against renewal of a mark that is still on the register.

23. The mark has been in use since 1990, and the respondent admits that no third party is affected. This order decides only the petitioner's right to seek renewal and does not touch the rights, if any, of others.

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24. Under Section 25(2), the renewal now granted will run from 20.02.2017 to 20.02.2027. The next renewal falls due on 20.02.2027 and, under Rule 57(1), can be applied for now. Since the mark remains registered, the petitioner's requests to correct the admitted data-entry error (word mark instead of label mark) and to change her address (Form TM-P dated 18.11.2025) have not become infructuous.

25. For these reasons, the Writ Petition is allowed on the following terms:

(a) The petitioner may file an application in Form TM-R for renewal of Trade Mark No.1532336 in Class 34, with the prescribed fee and any surcharge payable under the Rules, within four weeks from the date of receipt of a copy of this order. The respondent shall either enable the petitioner to file the application online or receive it in physical form.

(b) On receipt of the application, the respondent shall process it and, if it is otherwise in order, renew the registration under Section 25(2) of the Act for the period from 20.02.2017 to 20.02.2027, within four weeks thereafter. Until then, the respondent shall not remove the trade mark from the register.

(c) The petitioner may, along with that application or separately, apply for the renewal falling due on 20.02.2027. The respondent shall also consider

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the petitioner's request to correct the entry of the mark as a word mark and her Form TM-P dated 18.11.2025, on their own merits and in accordance with law, after giving her an opportunity of being heard if any request is to be refused.

26. There shall be no order as to costs.

01-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

The Registrar Of Trade Marks
The Office of the Trade Marks Registry
Intellectual property office building
G.S.T.Road,
Guindy, Chennai-600 032.

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DR.A.D.MARIA CLETE J.

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