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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED : 04.07.2024

DELIVERED:12.07.2024

CORAM:

THE HON'BLE MR. JUSTICE P.B.BALAJI

W.P.(IPD)No.17 of 2024

M/s PURVA METAL SECTIONS PVT LTD
Rep by its Attorney
Madurai Farooq Ahmed
"Shiv Sadan"
No.193, Outer Ring Road,
B-Narayanapura
Bangalore-560 016 ... Petitioner

Versus

1. The Registrar of Trade Marks
   Intellectual Property Buildings,
   G.S.T. Road, Guindy,
   Chennai-600 032.

2. M/s PURAVANKARA LTD,
   No.130/1, Ulsoor Road,
   Bangalore-560 042. ... Respondents

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Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus directing the first respondent to fix an early date for hearing to the Opposition Petition No.1050314 dated 25.06.2020 and dispose the same.

For Petitioner : Mr.S.Deivasigamani
For Respondents : Mr.S.Janarthanam
SPCGSC

ORDER

The petitioner seeks issuance of a writ of mandamus to direct the first respondent to fix an early date for hearing of the Opposition Petition No.1050314 dated 25.06.2020.

2. I have heard Mr.S.Deivasigamani, learned counsel for the writ petitioner and Mr.S.Janarthanam, learned Senior Panel Central Government Standing Counsel for the first respondent and Mr.R.Sathish Kumar, learned counsel for the second respondent.

3. Considering the fact that the prayer sought for in the writ

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petition is very limited, I directed the first respondent to file a counter affidavit and with the consent of all the parties, the main writ petition is taken up for final disposal.

4. The grievance of the writ petitioner is that he had filed an application for registration of its Trade Mark Logo " PURVA PORTA BUILD" in the year 2020. The first respondent, after scrutinizing the application, directed the concerned authorities to advertise the Trade Mark Application in the Trade Mark Journal. On 18.05.2020, the application of the writ petitioner was also duly published in the Trade Mark Journal No.1948-0.

5. However, the second respondent filed an Opposition Petition No.1053014 on 25.06.2020 to the application of the writ petitioner. The reply and the counter statement to the Opposition Petition has been filed under the relevant provisions of the Trade Marks Act read with Trade Marks Rules. According to the writ petitioner, it has incurred several crores of rupees merely towards advertisement of the business, including

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the impugned trademark and the delay on the part of the first respondent in taking up the Opposition Petition is causing immense hardship to the writ petitioner.

6. The writ petitioner also sent a communication on 26.02.2024 requesting the first respondent to fix an early date for hearing of the Opposition Petition. However, the first respondent has not acted upon the same. Hence, the writ petition has been filed.

7. Per contra, Mr.S.Janarthanam, learned Senior Panel Central Government Standing Counsel would object to the ordering of the writ petition on the ground that even though the prayer is limited in nature, it would open a Pandora's box and there is already huge pendency in the Opposition Section of the Trade Mark Registry and the case of the writ petitioner cannot be singled out and taken up as a special case or out of turn and would further submit that it would amount to injustice to the other applicants which would consequently violate the principles of equality.

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8. Learned counsel for the second respondent submits that the writ petitioner has also suffered an adverse order before a competent civil court. However, he would state that the second respondent is willing to abide by any orders of the Court, as the second respondent is also equally eager to get a final decision in the matter.

9. Having considered the rival submissions advanced on the side of the petitioner and the respondents, even though, the case of the first respondent is that there is huge backlog in the Registry and therefore, the writ petitioner's request cannot be acceded, I do not find any specific details provided in the counter affidavit as to how many cases are pending in the Opposition Section and how long it takes for an Opposition Petition to be effectively heard. Therefore, in the absence of sufficient material in the counter affidavit, I am unable to accept the arguments of the learned counsel for the first respondent that merely because there is huge backlog in the Registry, the writ petitioner's request cannot be entertained.

10. At the same time, considering the fact that the writ

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petitioner, despite suffering an adverse order by the competent civil Court, is eager to see the end of the tunnel and especially having invested huge monies even for advertisement of the proposed use of the registered Trade Mark, it is fair and proper that the hearing is concluded expeditiously so that the writ petitioner will at least know where it stands.

11. I also find that apart from the present Opposition Petition, filed by the second respondent, there are three other Opposition Petitions to three different Registration Applications of the writ petitioner themselves. However, the present writ petition is in respect of the earliest application, which is of the year 2020. Admittedly, the Opposition Petition was also filed in the year 2020 and is pending for four years now. Therefore, making it clear that only considering the peculiar facts of the present case, the writ petition is being favourably considered, this order shall not be cited as a precedent in other cases, including the three other Trade Mark Applications of the writ petitioner pending before the Registry.

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12. In fine, the writ petition is allowed and the first respondent is directed to dispose of the Opposition Petition Number 1050314 dated 25.06.2020 in accordance with law, after affording fair opportunity to the writ petitioner as well as the second respondent, within a period of four months from the date of receipt of a copy of this order. No costs.

12.07.2024

sr
Index: Yes/No
Speaking Order/Non-Speaking Order

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To

The Registrar of Trade Marks
Intellectual Property Buildings,
G.S.T. Road, Guindy,
Chennai-600 032.

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P.B.BALAJI., J.

sr

Pre-Delivery Order in W.P.(IPD)No.17 of 2024

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