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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.07.2023**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.5233, 5239 of 2020
and W.M.P.Nos.6179, 6181, 6188 of 2020

M/s.V.V.V & Sons Edible Oils Limited
Represented by its Director
M.Rajiv Vignesh
443, Bazaar, Post Box No.19,
Virudhunagar - 626 001.

Trademark Address
No.6, 6/2, Ellayamudali Street II Lane
Kailasam Street
Tondiarpet, Chennai - 600 081. ... Petitioner in both WP's

-vs-

1.The Registrar of Trademarks,
Sastri Bhavan, Chennai.

2.The Assistant Registrar of Trademarks,
Sastri Bhavan, Chennai.

3.M/s.Jeya Chemicals and Detergent Soap Pvt. Ltd.,
Old No.122, New No.123,
Shanmugapuram North Street,
Tuticorin - 628 002. ... Respondents in both WP's

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PRAYER in W.P.No.5233 of 2020: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a writ of Certiorari to call for the records pertaining to the impugned order passed by the second respondent dated 16.07.2018 vide proceedings in Form TM-M and quash the same.

PRAYER in W.P.No.5239 of 2020: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a writ of Mandamus directing the first respondent to take up the notice of opposition filed by the petitioner in opposition No.864414 having opposition Code No.857112 dated 05.10.2016 and accept evidence in support thereof and decide as per law.

For Petitioner in both WP's	:	Mr.R.L.Ramani, Senior Advocate for Mr.Raveendran
For Respondents 1 and 2 in both WP's	:	Mr.T.V.Krishnamachari
For Respondent 3 in both WP's	:	Mr.G.K.Muthukumar

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ORDER

In W.P.No.5233 of 2020, the petitioner assails an order dated 18.07.2018 by which the request of the petitioner to extend the time for receipt of evidence in support of the opposition to a trademark application of the third respondent was rejected. W.P.No.5239 of 2020 is consequential thereto and the petitioner seeks a direction to the first respondent to take up the notice of opposition filed by the petitioner under Opposition No.864414.

2. Learned Senior Counsel for the petitioner submits that the impugned order is liable to be interfered with in as much as the Registrar of Trademarks erroneously concluded that there is no power to extend the time limit for receipt of evidence. In support of the submission that the Registrar is empowered to extend time, reference is made to Section 131(1) of the Trademarks Act, 1999.

3. Learned counsel for the third respondent challenges the maintainability of these two petitions on the ground that these petitions were

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rendered infructuous by subsequent events. Specifically, learned counsel adverts to the registered Trademark No.2505082 in class 3 and submits that the trademark application of the third respondent was accepted and the registration certificate was issued. Thereafter, the petitioner filed a rectification petition in respect of Trademark No.2505082. In view of these developments, he submits that these two writ petitions are infructuous and that it is open to the petitioner to prosecute the pending rectification petition in accordance with law.

4. The petitioner has included the registration certificate in respect of Trademark No.2505082 in the typed set of documents placed on record. Learned counsel for the third petitioner has placed on record the rectification petition filed by the petitioner in respect of Trademark No.2505082 before the Trademarks Registry on 19.11.2018. In light of the registration being granted to the third respondent pursuant to the order impugned in these writ petitions, these writ petitions have been rendered infructuous. However, it is open to the petitioner to prosecute the pending rectification petition. The record discloses that such rectification petition was filed in November 2018.

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Therefore, the second respondent herein is directed to take necessary steps to consider and decide the rectification petition preferably within a period of ***six months*** from the date of receipt of a copy of this order. The petitioner and the third respondent are directed to extend all necessary cooperation for the expeditious conclusion of such proceedings.

5. Accordingly, these writ petitions are disposed of on the terms indicated above. No costs. Consequently, the connected writ miscellaneous petitions are closed.

05.07.2023

rna
Index : Yes / No
Internet : Yes / No

To

1.The Registrar of Trademarks, Sastri Bhavan, Chennai.

2.The Assistant Registrar of Trademarks, Sastri Bhavan, Chennai.

3.M/s.Jeya Chemicals and Detergent Soap Pvt. Ltd.,
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