25.1.2023
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Ct. no. 652
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C.O. 114 of 2023

Kalpesh Manubhai Ramoliya
Vs.
Controller of Patents and Designs & Anr.

Mr. Debnath Ghosh
Mr. Victor Dutta
Mr. Sourajit Dasgupta ...for the petitioner

This is an application under Article 227 of the Constitution of India seeking direction/request upon controller of patents and designs, the Patent Officer, Kolkata for expeditious disposal of the proceedings for cancellation registered design bearing no. 324986-017 in Class 23-04 pending before the Controller of Design, The Patent Office, Kolkata.

The petitioners contended that the petitioner has preferred this application for cancellation of the design being no. 324986-017 in Class 23-04 under Section 19 of the Designs Act, 2000 in accordance with the Rule 29 of the Design Rules 2001 on 24th November, 2021. Despite receipt and filing of the said application, the respondent no. 1 has not considered the same in any manner whatsoever. The respondent no. 1 has failed to proceed with the hearing of the said application since 24th November, 2021. The petitioner further states that Rule 29 of the Designs Rules, 2001, the respondent no. 1

is duty bound to afford a hearing to the petitioner after completion of procedural formalities but since 24th November, 2021, no steps have been taken by the respondent no. 1 despite repeated request and reminders. The petitioner submits that because of the fact that the said design is still remaining in the Register of Designs, the petitioner has been subjected to undue prejudice, loss and damage. The undue delay in the impugned proceedings has enabled the respondent no. 2 to take unfair advantage of the registration of the design, which was granted in favour thereof. Accordingly, the petitioner has sought for a direction upon the controller of Patent and Designs for expeditious disposal of aforesaid proceeding.

Since the prayer made by the petitioner is very innocuous and if it is heard and disposed of in terms of prayer even in the absence of respondents, neither party will have a cause to prejudice, service of copy of the application and notice to the opposite party is hereby dispensed with.

Considering the facts of the case and the reasonableness and justification of the prayer and in the interest of natural justice, C.O. 114 of 2023 is disposed of with a request upon the Controller to make every endeavour for expeditious disposal of the proceeding bearing no. 324986-017 in Class 23-04 preferably within

a period of six months from the date of communication of the order.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Ajoy Kumar Mukherjee, J.)