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

\# **CNR No. DLHC010646172025**

\+ C.A.(COMM.IPD-TM) 57/2025

THE HERITAGE ARTIFACTS .....Appellant

Through: Mr. Rohan Rohatgi, Advocate.

versus

THE REGISTRAR OF TRADE MARKS .....Respondent

Through: Ms. Radhika Bishwajit Dubey, CGSC with Ms. Gurleen Kaur Waraich, Mr. Kritarth Upadhyay, Mr. Vivek Sharma, Ms. Amulya Dev Mishra and Mr. Saksham Sharma, Advocates.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

O R D E R

% 03.09.2026

I.A. 21877/2025 *(Exemption)*

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

C.A.(COMM.IPD-TM) 57/2025

3. This appeal is filed on behalf of the Appellant under Section 91 of the Trade Marks Act, 1999 ('1999 Act') and Rule 156 of the Trade Marks Rules, 2017 ('2017 Rules') and Rule 6 of the Delhi High Court Intellectual Property Rights Division Rules, 2022, laying a challenge to impugned order dated 26.05.2025 passed by the Respondent cancelling registration of the trademark 

bearing No. 5714682 in Class 35, earlier

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granted in favour of the Appellant.

4. To the extent relevant, case set up in the appeal is that Appellant filed trademark application bearing No. 5714682 on 08.12.2022 for registration of the mark THE HERITAGE ARTIFACTS in Class 35. Examination Report (ER) was issued on 25.07.2023 raising objection under Section 9(1)(b) of 1999 Act to which Appellant filed response on 24.08.2023 followed by an application on 04.01.2024 for expedited processing of the application. After hearing on 19.01.2024, the trademark application was accepted vide Acceptance Order dated 22.01.2024.

5. It is stated that the trademark application was advertised in Trade Marks Journal No. 2141 dated 29.01.2024 and on 16.06.2024, the mark was registered in Class 35 under Registration Certificate bearing No. 3621220. Subsequently, however, cancellation notice dated 03.01.2025 was issued by the Trade Marks Registry to the Appellant under Section 57(4) of 1999 Act, which was not received. Pursuant to the hearing notice dated 03.04.2025, Appellant appeared for the hearing scheduled on 14.05.2025 and later filed written submissions on 15.05.2025. By impugned order dated 26.05.2025, Respondent cancelled the trademark registration on the ground that the words "THE HERITAGE ARTIFACTS" are descriptive of the services for which the trademark was applied as they referred to objects or items that hold cultural, historical or ancestral importance. The trademark is a device mark and directly pertains to the nature of applied goods/services and since the mark was applied on proposed-to-be-used basis and Appellant is unable to establish acquired distinctiveness, trademark does not fall under proviso to Section 9(1) and no monoply can be granted as that would deprive other

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businesses to use the descriptive words.

6. Learned counsel for the Appellant challenges the impugned order on multiple grounds. It is urged that no doubt the Respondent has the power to review the registration granted earlier but the discretion has to be exercised judiciously, which has not been done in the instant case. The objection under Section 9(1)(b) was duly addressed during prosecution stage and on a response being filed by the Appellant, the mark had earlier proceeded to registration. In order to come to a finding otherwise and cancel the registration, Registrar was required to give cogent reasons, which is absent in the impugned order. The stated reason for cancellation is to prevent a monoply over the words THE HERITAGE ARTIFACTS so as to prevent others from being deprived from using the said words. This basis for cancellation is completely illegal and only evidences an erroneous conflation of the scope of Section 9(1)(b) and the legitimate entitlement of protection of a composite mark, especially, looking at the fact that Appellant never claimed exclusive right over these words in isolation and only claimed registration on the composite mark as a whole, comprising distinctive stylisation of the words along with graphical representation of the elephant.

7. It is urged that it is a settled law that a composite mark cannot be dissected into its component parts to determine the distinctiveness since the consumers perceive and recall trademarks as a whole. Respondent has dissected the composite mark and taking the words in isolation and consequently wrongly held that registration is proscribed under Section 9(1)(b), which is against the anti-dissection rule. Learned counsel further submits that the matter be remanded back for fresh consideration of the application in accordance with law, considering that the mark had earlier

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proceeded to registration and Appellant is willing to give a disclaimer that it shall not use the words 'THE HERITAGE ARTIFACTS' as standalone and will only seek registration of the composite mark as a whole.

8. Learned CGSC appearing for the Respondent submits that the impugned order is justified, considering that the composite mark in question consists exclusively of the words THE HERITAGE ARTIFACTS, which in trade, serve to designate the kind, quality, intended purpose or other characterstics of the goods or services for which registration was sought, inasmuch as Class 35 relates to Indian handicrafts and handloom products. The words "HERITAGE" and "ARTIFACTS" are generic with dictionary meanings. HERITAGE refers to objects or items that hold cultural, historical or ancestral importance while ARTIFACTS refers to objects preserved and valued for narrating the history of a community or civilization and being descriptive in nature, the mark has been rightly refused for registration under Section 9(1)(b).

9. Having heard learned counsels for the parties, I am of the view that the matter needs to be remanded for reconsideration of the trademark application. The mark in question is a composite mark and had initially proceeded for registration, however, later cancellation notice was issued and by the impugned order, registration has been cancelled. The impugned order indicates that Respondent has dissected the composite mark into its component parts and cancelled registration on the ground that the words THE HERITAGE ARTIFACTS are descriptive and describe the nature and quality of the goods/services in Class 35. Appellant is right in its submission that the composite mark must be seen as a whole and not dissected into its

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individual parts. Seen as a whole, the mark 

has a graphical representation of an elephant and the words THE HERITAGE ARTIFACTS. Appellant does not claim use of the words as a standalone mark and has filed an affidavit to this effect before this Court. Respondent has not examined the mark as a whole taking the disclaimer into account and has not given any cogent reason for cancellation either.

10. For the aforesaid reasons and without entering into the merits of the case, this appeal is partially allowed setting aside impugned order dated 26.05.2025 and remanding the matter back to the Respondent for fresh consideration of application bearing No. 5714682 dated 08.12.2022 for the mark 

in Class 35. While considering the application, Respondent shall also consider the disclaimer which the Appellant is willing to give that it shall not use the words THE HERITAGE ARTIFACTS on a standalone basis. The decision will be taken by the Respondent within three months from today, after granting an opportunity of hearing to the Appellant.

11. Appeal is disposed of in the aforesaid terms.

JYOTI SINGH, J

SEPTEMBER 3, 2026
S.Sharma

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