WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **10.12.2024**

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

CMA (TM) No.13 of 2024

Shanmugavadivel .. Appellant

-vs-

The Registrar of Trade Marks,
Office of the Trade Mark Registry,
Intellectual Property Office Building,
G.S.T. Road, Guindy,
Chennai - 600 032. .. Respondent

Prayer: This Civil Miscellaneous Appeal filed under Section 91 of the Trade Marks Act, 1999 to set aside the order dated 03.04.2024 passed by the respondent, dismissing the review against order dated 04.04.2022 in application for registration of trade marks under No.4460729 in class 30 and consequently direct the respondent to advertise the application in trademarks Journal.

For appellant : Mr. S. Diwakar

For respondent : Mr. K. Ramanamoorthy
SPCGSC T/N

JUDGMENT

This appeal has been filed, challenging the impugned order passed in review petition filed by the appellant on the ground that the impugned order

https://www.mhc.tn.gov.in/judis

WEB COPY

rejecting the review petition filed by the appellant has been passed by total non application of mind to the fact that despite in the hearing notice dated 02.04.2024 issued by the appellant fixing the date of hearing in the review petition as 03.05.2024, the respondent has passed the impugned order on 03.04.2024 even prior to the date of the hearing of the review petition.

2. The ground raised by the appellant in the review petition as stated supra and the dates mentioned therein are not disputed by the learned standing counsel appearing for the respondent. Unless and until, the appellant was heard on the hearing date fixed as per the hearing notice issued to them, the question of passing the impugned order, rejecting the appellant's review without giving an opportunity of hearing to the appellant does not arise.

3. In the case on hand, the respondent has passed the impugned order, dismissing the review petition filed by the appellant even prior to the date of the scheduled hearing of the review petition, which is on 03.05.2024. It is clear from the above that arbitrarily by total non application of mind to the fact that the hearing was fixed in the review petition filed by the appellant

https://www.mhc.tn.gov.in/judis

WEB COPY

only on 03.05.2024, the respondent even prior to the said date, has passed the impugned order on 03.04.2024 itself.

4. For the foregoing reasons, necessarily, the impugned order has to be quashed and the matter has to be remanded back to the respondent for fresh consideration of the review petition filed by the appellant on merits and in accordance with law within a time frame to be fixed by this Court.

5. Accordingly, the impugned order dated 03.04.2024 passed by the respondent is hereby quashed and the appeal is allowed by remanding the matter back to the respondent for fresh consideration of the review petition filed by the appellant in application No.4460729 in class 30 on merits and in accordance with law after affording a fair hearing to the appellant, within a period of four weeks from the date of receipt of a copy of this order. No Costs.

10.12.2024

ab
Index: Yes/No
Speaking/Non Speaking Order
Neutral Citation Case: Yes/No

https://www.mhc.tn.gov.in/judis

WEB COPY

ABDUL QUDDHOSE,J.

ab

To

The Registrar of Trade Marks,
Office of the Trade Mark Registry,
Intellectual Property Office Building,
G.S.T. Road, Guindy,
Chennai - 600 032.

CMA (TM) No.13 of 2024

10.12.2024

https://www.mhc.tn.gov.in/judis