WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

CORAM

MR.JUSTICE N.SESHASAYEE

(T)CMA(TM)/168/2023
(OA/SR/7/2019/TM/CHN)

Apollo Hospitals Enterprise Limited,
No.19, Bishop Gardens,
Raja Annamalaipuram, Chennai – 600 028,
Tamil Nadu, India. ... Appellant

Vs.

The Registrar of Trademarks,
Office of the Trade Marks Registry,
Intellectual Property Office Building,
IP Building, GST Road,
Guindy, Chennai 600 032. ... Respondent

PRAYER: Transfer Civil Miscellaneous Appeal (Trade Mark) is filed under Section 91 of the Trade Marks Act, 1999, seeking the following prayer;

a) To direct the Respondent – the Registrar of Trademarks to register the trademark applied for by the Appellant vide application no.2891183 in class 44 and thereby render justice.

b) To direct the Respondent -The Registrar of Trademarks to set aside the refusal order dated 5th of October 2018 passed against the Appellant's trademark “Life is Priceless” bearing

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

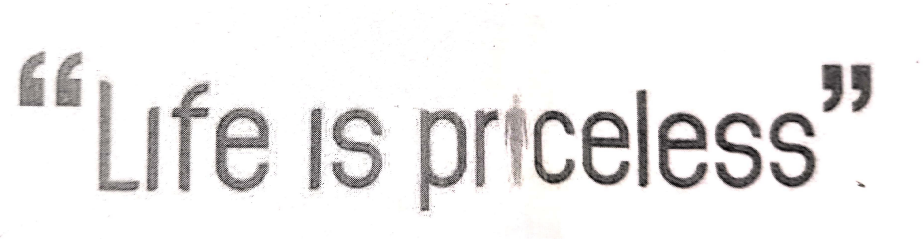
WEB COPY

Application No.2891183 in class 44 and allow the aforementioned trademark to proceed further for registration.

For Appellant : Mr.Vijay R.Sekar
for M/s.Kochhar and Co.
For Respondent : Mr.A.R.Sakthivel,
Special Panel Counsel

JUDGMENT

On 29.01.2015, the petitioner had filed an application to register its logo under clause 44 and it is as below;



2.The Registrar however, raised an objection under Section 9(1)(b) on the ground that the logo is descriptive. The appellant had filed its four paged response (effectively 3 pages) to the defect notice. Vide its impugned order, the respondent had rejected it and refused to register the appellant's logo. This is now under challenge.

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

WEB COPY

3.Heard both sides.The learned counsel for the appellant made two pointed submissions;

a) The appellant's logo has been registered under clause 5, 30 and 35, which the Registrar of Trade Marks had over-looked.

b) That the respondent is no where seen to have considered the reply/explanations given by the appellant to the defect notice.

4.This Court perused the records and finds that nothing can be more cryptic than the impugned order of the respondent. In all matters where the Trade Mark Registry is required to decide the issue vis-a-vis the registration or cancellation, it has to provide a reasoned order, more so when detailed explanations are offered. If the logo now sought to be registered is descriptive for clause 44, necessarily it will fall withing the ambit of Section 9(1)(b) for registration under Clause 5, 30 and 35. Inasmuch as the logo had already been registered under clause 5, 30 and 35, how come the same logo will invite the objection envisaged under Section 9(1)(b).

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

WEB COPY

5.In view of the same, this Court allows the appeal and remands the matter back to the Trade Mark Registry for a *de novo* consideration of the appellant's application. The complete exercise is required to be completed within a period of three (3) months from the date of receipt of a copy of this order. No costs.

26.03.2024

Tsg

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

N.SESHASAYEE, J.

Tsg

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

WEB COPY

(T)CMA(TM)/168/2023
(OA/SR/7/2019/TM/CHN)

26.03.2024

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