IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF APRIL, 2023

PRESENT

THE HON'BLE MR JUSTICE K.SOMASHEKAR

AND

THE HON'BLE MR JUSTICE UMESH M ADIGA

WRIT PETITION NO. 2646 OF 2021 (IPR)

BETWEEN:

C.KRISHNIAH CHETTY AND CO PVT LTD
FORMERLY KNOWN AS DEEPALI COMPANY PVT LTD.,
PRESENTLY R/AT:
THE TOUCHSTONE, B BLOCK
NO.2/4 , MAIN GUARD CROSS ROAD
BANGALORE-560001
REP. BY ITS DIRECTOR
C. GANEH NARAYAN.

...PETITIONER

Digitally signed by D K BHASKAR
Location: High Court of Karnataka

(BY SRI. UDAYA HOLLA – SR. COUNSEL FOR
SMT. KRUTHIKA RAGHAVAN - ADVOCATE)

AND:

1. C.KRISHNIAH CHETTY AND SONS PVT LTD
PRESENTLY R/AT:
THE TOUCHSTONE, A BLOCK
NO.3-A, MAIN GUARD CROSS ROAD,
BANGALORE-560001
REP. BY ITS MANAGING DIRECTOR
DR. C. VINOD HAYAGRIV.

2. THE REGISTRAR OF TRADEMARKS
TRADE MARK REGISTRY CHENNAI,
BOUODHIK SAMPADA BHAWAN,
G S T ROAD, GUINDY
CHENNAI-600032.

...RESPONDENTS

(BY SRI. C. K. NANDA KUMAR – SR. COUNSEL FOR
SRI. MANDEEP KALRA – ADVOCATE FOR R-1;
R-2 SINCE ABOLISHED, NOTICE NOT ORDERED)

THIS WP IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO: QUASH/SET ASIDE THE IMPUGNED ORDER DATED 19/01/2021 PASSED BY THE IPAB IN MSC PETITION NOS. 149, 151, 153, 155, 157, 159, 161, 163 AND 196/2020 (ANENXURE-A) AND SET ASIDE ALL ACTIONS TAKEN PURSUANT TO THE SAME.

THIS WRIT PETITION, COMING ON FOR FURTHER ARGUMENTS, THIS DAY, ***K. SOMASHEKAR .J.,*** MADE THE FOLLOWING:

ORDER

Learned counsel Smt.Krutika Raghavan for the petitioner is present before the Court physically and has engaged the services of learned Senior Counsel Sri Udaya Holla.

2. Learned Senior Counsel Sri C.K.Nanda Kumar for respondent No.1 is present before the Court physically and represents Sri Mandeep Kalra who is on record.

3. Notice against respondent No.2 – Registrar of Trade Marks is not ordered, since abolished.

4. Whereas learned counsel for respondent No.1 has facilitated a copy of the Gazette Notification issued by the Ministry of Law and Justice, New Delhi dated 13.08.2021 in

respect of the Tribunals Reforms Act, 2021 No.33 of 2021 wherein Chapter XXVI Section 33(3) reads as under:

> *"Any appeal, application or proceeding pending before the Tribunal, Appellate Tribunal or other Authorities specified in the Second Schedule, other than those pending before the Authority for Advance Rulings under the Income-tax Act, 1961, before the notified date, shall stand transferred to the court before which it would have been filed had this Act been in force on the date of filing of such appeal or application or initiation of the proceeding, and the court may proceed to deal with such cases from the stage at which it stood before such transfer, or from any earlier stage, or de novo, as the court may deem fit."*

5. In addition to that learned Senior counsel for respondent No.1 refers to the Second Schedule (Section 33) in respect of Intellectual Property Appellate Board under Trade Marks Act, 1999 (47 of 1999).

6. Learned Senior Counsel for respondent No.1 also referred to e-mail correspondence dated 08.08.2022 from the Joint Registrar Original Side, High Court of Madras wherein it is stated that "*in response to your mail dated 16.7.2022, I am to*

state that the cases dealt with by the erstwhile Intellectual Property Appellate Board (IPAB), Chennai, including ORA Nos.89-96/2020/TM/CHW have been transferred from IPAB, Chennai to the High Court of Madras. The same will be listed before the Hon'ble Court in due course."

7. Whereas learned Senior Counsel for appellant Sri Udaya Holla submitted relating to the cause of action on the previous date of hearing. But cause of action is nothing but bundle of facts and the same has to be considered by facilitating the evidence adduced by both the parties. The email correspondence of the Joint Registrar, High Court of Madras indicates that ORA Nos.89-96/2020/TM/CHW have been transferred from IPAB, Chennai to the High Court of Madras and the same will be listed before the Hon'ble court in due course. In this regard, it is relevant to refer to Section 9 of Code of Civil Procedure which reads as under:

> ***9. Courts to try all civil suits unless barred.***
>
> *The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.*
>
> *[Explanation I].--A suit in which the right to property or to an office is contested is a suit of a*

civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

[Explanation II].--For the purposes of this section, it is immaterial whether or not any fees are attached to the office referred to in Explanation I or whether or not such office is attached to a particular place.

It is also relevant to refer Sections 19 and 20 of the Code of Civil Procedure which reads as thus:

Section 19. Suits for compensation for wrongs to person or movables.

Where a suit is for compensation for wrong done to the person or to movable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.

Section 20. Other suits to be instituted where defendants reside or cause of action arises.

Subject to the limitations aforesaid, every suit shall be instituted in Court within the local limits of whose jurisdiction-

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit

actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises

Therefore, keeping in view the submission made by learned Senior Counsel for the appellant and so also, learned Senior Counsel for respondent No.1 as well as the aforesaid provisions of Code of Civil Procedure and the e-mail correspondence made by the Joint Registrar, High Court of Madras, this writ petition does not survive for consideration and accordingly, it is disposed of.

In view of disposal of the writ petition, pending IAs, if any, stands disposed of.

Sd/-
JUDGE

Sd/-
JUDGE

DKB