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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2024

CORAM

MR.JUSTICE N.SESHASAYEE

(T)CMA(TM) No.180 of 2023
(SR No.108/2019/TM/CH)

The Bull Hospitality
A partnership firm represented by
one of its partner Mr.G.Sivagurunathan
Old No.9, New No.41, Upstairs
Arjunan Street Kennedy Garden
Karuvadikuppam, Pondicherry 605 008 ... Appellant

Vs.

The Registrar of Trade Marks
Trade Mark Registry Chennai
Boudhi Sampada Bhawan
G.S.T. Road, Guindy, Chennai - 600 032 ... Respondent

Prayer : Civil Miscellaneous Appeals filed under Section 91 of the Trade Marks Act, 1999 to set aside the order dated 08.08.2019 passed by the Deputy Registrar of Trade Marks, Chennai in connection with the Trademark "THE BULL" (Device) bearing No.3918988.

For Appellants : Mr.Thomas T.Jacob

For Respondent : Mr.G.Ilangovan, CGSC

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JUDGMENT

The appellant herein was unsuccessful in having its mark 'THE BULL' registered with a device attached to it on the ground that there is already in existence a registered word mark 'BULL', whose registered proprietor is 'Red Bull A.G.', Switzerland. The appellant sought to have its mark registered under Class 43 'for Food and Beverages'. The other mark cited by the Registrar pertains to a host of almost every consumable business. Aggrieved by the same, the petitioner is before this court.

2. The learned counsel for the appellant took this court through its mark and submitted that the expression 'The Bull' is only a descriptive name, and it can be used by anyone as it by itself does not throw any distinctiveness about it. Secondly, the phrase 'The Bull' does not exist in isolation, but is accompanied by a device to give it an edge of distinctiveness over any other mark. He further submitted that the Trademark Registry has not understood the value of the device that made the petitioner's mark distinctive.

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3. Heard both sides and perused the materials available on record.

4. The petitioner's mark is a label which has the word 'The Bull' plus a device attached to it. It looks as below:



5. The mark with which the Trademark Registry resisted the petitioner's prayer for registering its mark is merely a word mark 'Bull'. Under Section 9(1)(a) of the Act, the word 'Bull' by itself does not throw any distinctiveness to qualify for registration. However, the device as shown above makes the petitioner's mark reasonably distinctive, unless there are any other label with a device similar to the one which the petitioner has developed. But the respondent does not have a case to resist registration on that score.

6. In view of the same, this court considers that the Trademark Registry appears to have adopted a short-sighted approach in declining to register petitioner's label. Necessarily, the impugned order of the Trademark Registry has to be set

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aside. Accordingly, the civil miscellaneous appeal is allowed and the impugned order of the Trademark Registry dated 08.08.2019 made in A. No.3918988 is set aside, and the Trademark Registry is directed to register petitioner's mark,



within a period of two months from the date of receipt of a copy of this judgment. It is underscored that the petitioner may not be entitled to have the word 'The Bull' separately registered as a trademark. The respondent is now required to expedite the process and complete the procedure. No costs.

09.02.2024

Asr
Index: Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No

To

The Registrar of Trade Marks
Trade Mark Registry Chennai
Boudhi Sampada Bhawan
G.S.T. Road, Guindy, Chennai - 600 032

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N. SESHASAYEE, J.

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