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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2024

CORAM

MR.JUSTICE N.SESHASAYEE

(T)CMA(TM) No.187 of 2023
(OA/SR.47/2019/TM/CHN)

Orient Cement Limited
Door No.5-9-22/57/D
2nd and 3rd Floor
G.P.Birla Centre, Adarshnagar
Hyderabad - 500063 ... Appellant

Vs.

The Registrar of Trademarks,
Trade Mark Registry Chennai
Boudhik Sampada Bhawan
G.S.T. Road, Guindy, Chennai - 600032 ... Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 91(3) of the Trade Marks Act, 1999 to set aside the impugned order dated 19.02.2019 passed by the respondent in Application No.3078176 and allow the said application.

For Appellant : Mr.Bharadwaj Jaishankar
for M/s.Induslaw

For Respondent : Mr.M.Karthikeyan, Sr. Panel Counsel

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JUDGMENT

The appellant herein challenges the order of the respondent herein rejecting its application for registering its tag line in English. The petitioner has registered multiple marks in different languages under Class 19. They read as **'BIRLA.A1 PREMIUM CEMENT'**. It has registered both its label and also trade mark with a device. The mark itself reads '**BIRLA.A1'** and beneath is written as **'PREMIUM CEMENT'** and this is placed in a larger square and its beneath it has been as **'Mazbooti mein Al.' 'Bharose mein A1.'** both in English as well as in Hindi and its transliteration in vernacular languages is also written depending on the language in which the mark is registered. It is as below:



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2. The respondent herein does not appear to have any difficulty in registering the tag line **'Mazbooti mein Al.' 'Bharose mein A1.'** in any other languages, but when it comes to English, he appears to have been agitated by the same and rejected the application of the appellant under Sec.9(1)(a) and (b) for want of distinctiveness.

3. Heard both sides and perused the records available in the form of typed set of papers.

4. This court is at a loss to understand as to how the tag line in English alone will be hit by Sec.9(1)(a) and (b) when they passed the scrutiny of the respondent vis-a-vis other languages including Hindi. Vis-a-vis the objection under Sec.9(1)(a) is concerned the tag line as stated above does not appear in combination with the trade mark and not in exclusion of it. It is not the language that matters, but the content that is important, this court considers that the rejection by the respondent to register petitioner's tag line **'Mazbooti mein Al.' 'Bharose mein A1.'** only in English is plainly arbitrary.

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5. In view of the same, this court allows this appeal and sets aside the impugned order dated 19.02.2019 passed by the respondent in Application No.3078176.

No costs.

22.02.2024

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

To
The Registrar of Trademarks,
Trade Mark Registry Chennai
Boudhik Sampada Bhawan
G.S.T. Road, Guindy, Chennai - 600032

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N. SESHASAYEE, J.

Asr

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