HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 15549/2023

Farmer Care Natural Provider (Opc) Private Limited, A-163, Rajpura Awashiy Yojana, Ground Floor, Sangod Road, Raipura, Kota, Rajasthan-324001 Through Director Vinod Meena S/o Banwari Lal Meena.

----Petitioner

Versus

Registrar of Trade Mark, Government of India, Near Chanakya Overbridge, Ghatlodia, Ahmedabad-380061, Gujarat.

----Respondent

For Petitioner(s)	:	Ms. Nirmala Soni
For Respondent(s)	:	Mr. Pawan Pareek

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

16/08/2024

1. The instant writ petition has been filed by the petitioner, feeling aggrieved by the order dated 09.05.2023 passed by the Examiner of Trade Marks, Trade Marks Registry, Government of Rajasthan, dismissing petitioner’s application No.5375482, seeking registration of trade mark ‘Farmer Care’ in Class 3 in the name of “M/s. Farmer Care Natural Provider (OPC) Private Limited”.

2. Heard counsel for both parties and perused the record.

3. It appears that after receiving the application, submitted by the petitioner for registration of a Trade Mark ‘Farmer Care’ in Class-3, Registrar of Trade Marks vide letter dated 13.05.2022 informed to the authorised representative of petitioner about the objection raised under Section 11(1) of the Trade Marks Act, 1999. It was informed to the petitioner that as the Trade Mark, sought to be registered, is identical with or similar to earlier marks in

respect of identical or similar description of goods or services. The detail of such similar Trade Mark, on Application No.3514257 under Trade Mark 'Farmer Care' in Class-3, in the name of 'Farmerz Luxury Care', 1265 Block-C, Sushant City Ansal, Panipat-132103 (Haryana), Proprietor Mr. Vikas Bhardwaj, were also enclosed with the letter dated 13.05.2022.

4. It appears that petitioner failed to meet out such objection, hence, his application for registration has been dismissed vide order dated 09.05.2023.

5. A perusal of the order impugned reveals that the Trade Mark sought to be registered by the petitioner was found to be similar with the trade mark already registered, the details of already registered trade mark in the name of 'Farmerz Luxury Care' Class 3, Proprietor Mr. Vikas Bhardwaj for Trade Mark 'Farmer Care' Class-3, belongs to Proprietor Mr. Vikas Bhardwaj are also indicated in the letter dated 13.05.2022.

6. Petitioner has not impleaded Mr. Vikas Bhardwaj as party to this writ petition, who is Proprietor of 'Farmerz Luxury Care' having the similar Trade Mark 'Farmer Care' in Class-3, wherein petitioner has applied for registration of his Trade Mark. It is not in dispute that the petitioner's application for registration of trade mark was rejected only on the ground of his trade mark, which is found similar to the trade mark already registered.

7. Thus, the writ petition is not liable to succeed due to non-impleadment of necessary and affected party.

8. In addition to above, this Court finds that against rejection of the application of petitioner, seeking registration of Trade Mark, petitioner has a statutory remedy of filing an appeal against the

impugned order dated 09.05.2023 under Section 91 of the Trade Marks Act, hence, on that count also, the writ petition is not liable to be entertained.

9. For the aforesaid reasons, but not on merits, the writ petition is hereby dismissed.

10. All pending application(s), if any, stand(s) disposed of.

(SUDESH BANSAL),J

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