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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Reserved on: 01<sup>st</sup> September 2025*  
*Date of Decision: 02<sup>nd</sup> December 2025*

+ C.A.(COMM.IPD-TM) 164/2022 & CRL.M.A. 10597/2024, I.A. 22465/2022, I.A. 7890/2025

GANRAJ ENTERPRISES .....Appellant  
Through: Mr. Ujjwal Bhardwaj, Advocate

versus

LAND MARK CRAFTS LTD & ANR. ....Respondents  
Through: Mr. J. Sai Deepak, Sr. Advocate with  
Ms. Stuti Wason, Mr. Vipin Wason  
and Mr. Avinash Sharma, Advocates  
along with Mr. Sanjay Kr. Pandita,  
AR for R-1  
Ms. Arunima Dwivedi, CGSC with  
Ms. Himanshi Singh, Mr. Sainyam  
Bhardwaj and Ms. Monalisha  
Pradhan, Advocates

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**CORAM:**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

### **J U D G M E N T**

**MANMEET PRITAM SINGH ARORA, J:**

1. The present appeal under Section 91 of the Trademarks Act, 1999 [‘Trademarks Act’] read with Rule 156 of the Trade Marks Rules, 2017, has been filed by Ganraj Enterprises i.e., the Appellant herein challenging the order dated 10.11.2022 [‘impugned order’] passed by the Registrar of Trade Marks, Delhi i.e., Respondent No. 2 herein. By the said impugned order,



Respondent No. 2 had rejected the Application No. 266969, filed by the Appellant seeking rectification of Respondent No. 1's TM No. 1566805 for its wordmark 'HP'.

**Factual Matrix of the present case**

2. The facts, as set out in the pleadings, which are relevant for the adjudication of the captioned matter are as under: -

2.1. The mark 'HP' was coined and adopted by Mr. Pankaj Lidoo, Director of Respondent No. 1 on 15.12.1995 and since, then it has been in continuous use across India. Mr. Pankaj Lidoo was doing business in the goods viz. self-drilling/driving screws and blind rivets through a sole proprietorship in the name and style of M/s Landmark Engineers.

2.2. Mr. Pankaj Lidoo on 08.07.2002, incorporated a company i.e., M/s Landmark Fasteners Pvt. Ltd. and as a result, the firm M/s Landmark Engineers became M/s Landmark Fasteners Pvt. Ltd.

2.3. M/s Landmark Fasteners Pvt. Ltd. carried on business in the goods of self-drilling, screws and blind rivets and filed a Trademark Application bearing TM No. 1566805 for the wordmark 'HP' in Class 6 on 08.06.2007, claiming a user date of 15.12.1995. The said application was accepted and advertised on 01.04.2010 and subsequently got registered vide certificate no. 9211164 dated 02.02.2011. However, the said registration was granted with a condition, which reads as 'restricting the sale of goods in the State of UP only'.

2.4. On 24.11.2014, M/s Landmark Fasteners Pvt. Ltd. filed another Trademark Application bearing TM No. 2848372 for the identical wordmark 'HP' for the same goods, in the same Class 6, claiming user date of 15.12.1995. The said application was accepted and advertised on 02.10.2017



and subsequently got registered vide certificate no.1787335 dated 21.02.2018. In this registration; however, there was no restriction of territoriality, as it was in the case of TM No. 1566805.

2.5. M/s Landmark Fasteners Pvt. Ltd. by virtue of assignment deed(s) dated 05.08.2013 and 29.04.2019 assigned, both the trademarks [being TM No. 1566805 and TM No. 2848372] in favour of M/s Landmark Crafts Pvt. Ltd./Respondent No. 1<sup>1</sup>.

The said assignment deeds were filed with the Registrar of Trade Mark/Respondent No. 2 and Respondent No. 1 was brought on record as the subsequent registered proprietor of TM No. 1566805 on 12.12.2017 and for TM No. 2848372 on 11.12.2019.

2.6. It is stated that the Appellant<sup>2</sup> herein between 23.12.2014 to 30.12.2015 filed four [4] Trademark Applications [bearing TM nos. 2867961, 2939701, 3004252 and 3142368] for registration of its logo mark 'HP+/**HP<sup>+</sup>**' and other HP+ device marks in Class 6 for identical goods namely self-driving screws; claiming user date of 10.12.2014 in the first three [3] applications and user date of 10.12.2015 in the fourth application.

The Trade Mark Registry issued an examination report dated 01.06.2016 in respect of Appellant's TM No. 2867961 citing both registrations of Respondent No. 1 i.e., TM No. 1566805 and TM No. 2848372.

2.7. It is a matter of record that Respondent No. 1 [between 28.11.2018 to 18.01.2019] filed opposition in respect of all these four [4] applications of the Appellant, contending that the Appellant's mark 'HP+/**HP<sup>+</sup>**' is

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<sup>1</sup> The said name has been changed to M/s Landmark Crafts Limited w.e.f. 11.11.2024



deceptively similar to Respondent No. 1's registered trademark 'HP'.

2.8. In these facts, the Appellant filed a rectification petition bearing no. 266969 on 23.09.2019 seeking cancellation of Respondent No. 1's TM No. 1566805 for 'HP' on the ground that it is deceptively similar to the Appellant's mark 'HP+'. This rectification petition has been dismissed by Respondent No. 2 by its impugned order dated 10.11.2022, wherein Respondent No. 2 returned the following findings in favour of Respondent No. 1 and against the Appellant: -

- i. Respondent No. 1 is the prior owner and user of the trademark 'HP', while the Appellant is a subsequent adopter of the mark 'HP+'.
- ii. Respondent No. 1 got its registration for mark 'HP' in the year 2007 and Respondent No. 1 holds PAN-India registration through TM No. 2848372.
- iii. Restrictions applicable to TM No. 1566805 do not apply to TM No. 2848372.
- iv. The Appellant possesses not even a single registration for the mark 'HP', and the Appellant is not a 'person aggrieved'.
- v. The Appellant failed to show as to how Respondent No. 1's trademark 'HP' prevented the Appellant from doing, which the Appellant could otherwise pursue lawfully.
- vi. The grounds of rectification are baseless, which were not substantiated by proper evidence.

2.9. Aggrieved by the impugned order dated 10.11.2022, the Appellant has preferred the present appeal.

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<sup>2</sup> Ganraj Enterprises



3. During the pendency of these proceedings, three [3] trademark applications of the Appellant have already been abandoned, and one trademark application of the Appellant has been refused. The status of the four applications filed by the Appellant before Respondent No. 2 is as under:

| TM Application No. | Date of Application | Alleged date of user | Date of Opposition filed by Respondent No. 1 | Status                  |
|--------------------|---------------------|----------------------|--|-------------------------|
| 2867961            | 23.12.2014          | 10.12.2014           | 28.11.2018                                   | Refused on 13.08.2025   |
| 2939701            | 13.04.2015          | 10.12.2014           | 18.01.2019                                   | Abandoned on 13.03.2020 |
| 3004252            | 09.07.2015          | 10.12.2014           | 05.02.2019                                   | Abandoned on 19.05.2020 |
| 3142368            | 30.12.2015          | 10.12.2015           | 18.01.2019                                   | Abandoned on 13.03.2020 |

#### **Submissions on behalf of the Appellant**

4. Mr. Ujjwal Bhardwaj, learned counsel for the Appellant stated that Respondent No. 1's impugned registration under TM No. 1566805 is limited to the State of U.P. He stated that the Appellant carries on its business in State of Maharashtra only and does not carry on any business in State of U.P. He stated that however; Respondent No. 1 is interfering in the Appellant's right to use its mark 'HP+'. He stated that Appellant has no objection to Respondent No. 1's use of the registered mark 'HP' in the State of U.P.


4.1. He stated that Respondent No. 2 failed to appreciate that though the predecessor-in-interest of Respondent No. 1 had claimed use of mark 'HP' since 1995 while applying for TM No. 1566805; however, no document was filed in support of the said user claim.


4.2. He stated that in the commercial suit pending between the parties, Respondent No. 1 has relied upon a photocopy of an alleged rent agreement and a dealership agreement to show its user claim since 1995. He stated that



in the said suit, the Appellant has cross-examined the attesting witnesses of the aforementioned alleged agreements, and the said cross-examination shows that the said rent agreement and dealership agreements are forged documents. He stated that therefore, Respondent No.1's claim of prior user of the mark 'HP' since 1995 is false. He stated that since the registration of the mark 'HP' was obtained by Respondent No. 1 on false claims and misrepresentation, the Registrar/Respondent No. 2 ought to have cancelled the impugned registration under TM No. 1566805.

4.3. He stated that Respondent No. 2 wrongly held that Respondent No. 1 has a pan-India registration for TM No. 2848372 and the conditions imposed on TM No. 1566805 are not applicable to TM No. 2848372 in terms of Section 16 of the Trademarks Act.

4.4. He stated that since Respondent No. 1's TM No. 1566805 restricts its user to the State of U.P., Respondent No. 1 cannot carry on business in Maharashtra by using the mark HP. He stated that since Respondent No. 1 is selling its products under the 'HP' mark in Maharashtra and also interfering in the Appellant's right to use the mark 'HP+/ by filing the commercial suit; therefore, the Appellant is a 'person aggrieved'.

4.5. He stated that since the year 2014, the Appellant has been trading and manufacturing the products, which fall in Class 6. He stated that the Appellant has placed on record the documents to show that the Appellant has been carrying on business using the mark 'HP+/' since 2014 and the finding of Respondent No. 2 that the invoices placed on record by the Appellant are fabricated is without any basis. The details of the documents relied upon by the Appellant have been enlisted in Section E of the written



submissions dated 18.08.2025 filed by the Appellant.

4.6. He stated that Appellant's application TM No. 2867961 has been refused for registration vide order dated 13.08.2025 passed by Registrar of Trade Marks, Mumbai and the Appellant is in the process of filing an appeal challenging the said order.

**Submissions on behalf of Respondent No. 1**

5. In response, Mr. J. Sai Deepak, learned senior counsel for Respondent No. 1 stated that through its predecessor-in-interest, Respondent No. 1 is the prior adopter, continuous user and the proprietor of the registered wordmark 'HP' in respect of self-drilling screws and blind rivets, since 15.12.1995.

5.1. He stated that TM No. 1566805 grants statutory recognition for the proprietary rights of Respondent No. 1 in the mark 'HP' for sale of goods in the State of U.P.; however, TM no. 2843872 grants protection to Respondent No. 1 for pan-India usage.

5.2. He relied on the findings in the impugned order dated 10.11.2022, as well as the order dated 13.08.2025 passed by the Registrar of the Trade Marks, Mumbai, while refusing the Appellant's application bearing TM No. 2867961.

5.3. He stated that the Appellant admittedly claims first use of the mark 'HP+/**HP<sup>+</sup>**', only from 10.12.2014, which is nearly two [2] decades after the Respondent No. 1's adoption of the trademark 'HP' in the year 1995. He stated that the Appellant has not placed on record, any documentary evidence, to establish or support any prior rights of the impugned mark 'HP+/**HP<sup>+</sup>**'.

5.4. He stated that the rectification petition filed by Appellant vis-à-vis



Respondent No. 1's TM No. 1566805 [which is the subject matter of the present case] and TM No. 2848372<sup>3</sup> is an abuse of process. He stated that the said rectification petition(s) have been filed in retaliation to the oppositions filed by Respondent No. 1 against Appellant's aforementioned four (4) trademark applications.

5.5. He stated that the subject rectification petition vis-à-vis TM No. 1566805 has been filed on the averment that the logo mark of the Appellant 'HP+/**HP**<sup>+</sup>' is deceptively similar to Respondent No. 1's registered wordmark 'HP'; however, the Appellant in its reply dated 03.06.2016 to the examination report dated 01.06.2016 had categorically asserted that its mark 'HP+/**HP**<sup>+</sup>' is not deceptively similar to the mark 'HP'.

5.6. He disputed that the documents relied upon by the Appellant, enlisted in Section E of the Appellant's written submissions dated 18.08.2025, show use of the mark 'HP+' by the Appellant since 2014. He referred to the additional note dated 02.09.2025 filed by Respondent No. 1 explaining Respondent No. 1's stance on the said documents and stated that the said documents do not support the claim of user of 2014 by the Appellant.

5.7. He stated that Respondent No. 1 is the prior user, first adopter of the mark 'HP' and has been successfully, uninterruptedly, continuously and has been legally using the mark for self-drilling screws and allied products; and the said mark since 1995 has become associated with Respondent No. 1 in the minds of the customers on account of such continuous use.

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<sup>3</sup> Pending before the Trademark registry at Delhi






### Findings and Analysis

6. This Court has heard the learned counsels for the parties and perused the record.

7. Impugned TM No. 1566805 was applied by the predecessor-in-interest of Respondent No. 1 on 08.06.2007 with a user claim of 15.12.1995. The registration was granted on 02.02.2011, with a limitation to the effect 'restricting the sale of the goods in the state of U.P. only'.

8. The Appellant during submissions categorically asserted that it has no objection to Respondent No. 1's using the mark 'HP' in the State of U.P. and was only aggrieved by Respondent No. 1's legal proceedings [commercial suit] seeking to restrain the Appellant from using the logo mark 'HP+/' in the State of Maharashtra.

9. The Appellant contended that due to this limitation in the impugned TM No. 1566805, Respondent No. 1 cannot maintain a suit for infringement and/or passing off against the Appellant.

In the considered opinion of this Court, this issue raised by the Appellant will be decided by the Commercial Court in the proceedings of case bearing CS(COMM) No. 664/2022 ['commercial suit'], pending adjudication before Karkardooma Courts, Delhi and this cannot be a ground for seeking rectification of Respondent No. 1's TM No. 1566805.

10. In this appeal, the Appellant has next challenged Respondent No. 1 user claim of 15.12.1995. The Appellant in its written submissions dated 18.08.2025 has referred to the evidence led and recorded in the commercial suit pending between the parties to raise a contention that the user claim of 15.12.1995 is incorrect. However, thereafter, the Appellant in its written submissions dated 18.08.2025, has categorically stated at para 1(iv) that the



issue of prior user claim is not a concern in a present petition. This Court presumes that the Appellant does not wish to invite a finding on the user claim of 15.12.1995 as the same is sub-judice before the Commercial Court in the suit proceedings.

In view of the aforesaid submission of the Appellant, this Court is refraining from returning any finding on the issue of Respondent No. 1's user claim of 15.12.1995. In view of the aforesaid stand of the Appellant, the Appellant's plea that the registration TM No. 1566805 was obtained on the basis of a fraudulent claim of user since 15.12.1995, therefore does not survive for consideration in this appeal.

11. The Appellant has also urged that TM No. 2848372 held by Respondent No. 1 for the mark 'HP' should be read to include the limitation [i.e., restricting the sale of goods in the State of U.P. only], attached with TM No. 1566805. It has contended that Respondent No. 2 erred in holding that the restrictions of TM No. 1566805 do not apply to TM No. 2848372.

11.1. The Appellant also contended that M/s Landmark Fasteners Pvt. Ltd. while applying for TM No. 2848372 failed to disclose to the Registrar of Trademarks that it had already assigned TM No. 1566805 to Respondent No.1 herein. It contended that the failure to disclose this fact led to TM No. 2848372 being wrongly associated with TM No. 1566805.

11.1.1. The Appellant has disclosed that it has already filed a separate rectification application no. for TM No. 2848372, which is pending before the Registrar of Trademark, Delhi.

11.2. The aforesaid submissions of the Appellant are directed towards the scope and ambit of the registration of TM No. 2848372, which should ideally be decided in the rectification application filed by the Appellant for



TM No. 2848372.

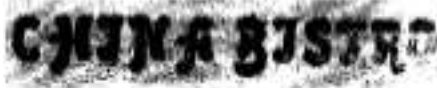
11.3. However, Appellant has pressed this submission vis-à-vis territorial limitation of TM No. 1566805 to be read as TM No. 2848372 during arguments and has invited a finding in these proceedings and therefore this Court proceeds to decide this issue.

11.3.1. The Appellant's contention that the territorial limitation attached to TM No. 1566805 would *ipso-facto* be read into TM No. 2848372, as these are associate marks in light of Section 16 of the Trademarks Act, is without any legal basis.

11.3.2. At this stage it would be apposite to refer to the judgment passed by the Coordinate Bench of this Court in **Foodlink F & B Holdings India (P) Ltd. v. Wow Momo Foods (P) Ltd.**<sup>4</sup>, wherein the Court held that association of a later trademark with an earlier trademark in the certificate of registration would not *ipso-facto* incorporate the disclaimer in the earlier trademark to the later trademark. The relevant paragraph nos. 22 to 31 of the said judgment read as under, wherein the statement of law appears at paragraph no. 30: -

“22. Mr. Sengupta has invited my attention to the various trade mark registrations granted to the plaintiff.

23. The first registration, No. 1470912, granted to the plaintiff was for



the device mark w.e.f. 18 July 2006, in Class 42 for “restaurant, Bar, Snack Bar, Hotels, Cafes, Cafeterias, Canteens, Catering, Outdoor Catering, food court, food stalls”. The following disclaimer was entered in hand below the registration in the Trade Mark Journal:

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<sup>4</sup> 2023 SCC OnLine Del 4719



“No exclusive right over the word China and Bistro, except as substantially<sup>8</sup> shown.”

24. The second registration (No. 2264846) of the device



mark was w.e.f. 11 January 2012, in Class 43 for “all kind of restaurant, bar, snack bar, hotels, cafes, cafeterias, canteens, catering, outdoor catering, food court and food stalls”. This registration contained the following disclaimer:

“Registration of this trade mark shall give no right to the exclusive use of the word china. This is subject to association with registered/pending registration no. 1470912.”

25. Thus, there was no express disclaimer of “Bistro” in Registration



No. 2264846, granted for

26. The third registration (No. 3582562), chronologically, was for the



mark, w.e.f. 1 July 2017, in Class 43 for “restaurants, services relating to providing food and drinks; cafeterias, lounges, bars, pubs; catering services, providing food counters, temporary accommodation, hospitality services, hotels, motel and restaurant booking and reservations; providing of boarding and lodging services hotel information services”. Though this registration (sic) did not incorporate any disclaimer, it contained that the comment that it was “associated with



2264846”, whereunder the mark was registered.


27. The fourth registration (No. 5579338) obtained by the plaintiff, which, at the time of filing of the present suit, was still pending and has, since, been registered on 5 July 2023, was for the word mark CHINA BISTRO, without any disclaimer but, again, indicating Registration No.



3582562, whereunder the mark was registered.

28. Mr. Sengupta's contention is that, as by entering a rider, in Registrations Nos 3582562 and 5579338, whereunder the device



mark  and the word mark CHINA BISTRO respectively were registered, that they were to be associated (sic) with earlier marks which contained such disclaimers, the disclaimers became *mutatis mutandis* applicable to the latter marks as well.

29. Mr. Lall, learned Counsel for the plaintiff, seriously questions the correctness of this submission and, in that regard, relies on Section 44<sup>9</sup> of the Trade Marks Act, 1999. He submits that a plain reading of Section 44 reveals that the only purpose of associating trademarks is so that they are assignable and transmissible as a whole and not separately. Barring this consideration, all trademarks, even if associated with each other, are to be treated as separate trademarks. As such, he submits that the disclaimer to which trade mark no. 1470912 and 2264846 were subject to, would not apply to the later trademarks, as no such disclaimer was to be found in the certificates registering the said trademarks.


30. My attention has not been invited to any provision by which, by mere association of a later trade mark with an earlier trade mark in the certificate of registration, a disclaimer in the earlier trade mark would ipso facto, apply to the later trade mark as well. Indeed, there is no reason why the certificate of registration of the later marks would not expressly include such disclaimers, if such was the intent of the registering authority.

31. In that view of the matter, and keeping in mind Section 44 of the Trade Marks Act, prima facie, it would appear that the disclaimer in the present case apply only to the first two registered trademarks, i.e. Mark No.



1470912 for  and Mark No. 2264846



for , and not to the latter three trademarks, including the word mark CHINA BISTRO.

[Emphasis Supplied]

11.3.3. The Respondent No. 2 in the impugned order, has relied upon the judgment(s) passed by the High Court of Bombay in **Skol Breweries**




**Ltd. v. Som Distilleries & Breweries Ltd.<sup>5</sup> and Pidilite Industries Limited v. Poma-Ex Products<sup>6</sup>**, wherein as well it has been similarly held that condition and limitation placed in respect of one TM registration cannot be read into a separate and distinct TM registration although of the same trademark.

11.3.4. In view of the law enunciated in the aforesaid judgments, the finding of the Respondent No. 2 in the impugned order holding that the territorial limitation in TM No. 1566805 is not applicable to TM No. 2848372 is correct and in accordance with law.

11.4. The Appellant has next contended that the Registrar of Trademark/Respondent No. 2 erred in holding that Appellant has no *locus standi* to file for rectification as it is not a ‘person aggrieved’.

11.4.1. The Appellant stated that it has been trading and manufacturing the self-drilling screws since 2014 in the prescribed Class 6, in the State of Maharashtra and Respondent No. 1 has sought to restrain the Appellant on the strength of the registrations i.e., TM No. 1566805 and TM No. 2848372. The Appellant stated that the registration TM No. 1566805 has been obtained by Respondent No. 1 on a false user claim of 15.12.1995.

11.4.2. In the considered opinion of this Court, the Appellant would be entitled to maintain a petition seeking rectification since it is asserting a rival claim to use its logomark, ‘HP+/’, which is being opposed by Respondent No. 1. To this extent this Court agrees that the Appellant had a *locus standi* to maintain the rectification petition.

However, the adjudication on merits of the grounds on which the

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<sup>5</sup> 2011 SCC OnLine Bom 1750

<sup>6</sup> MANU/MH/1661/2017



rectification petition has been filed would of course be subject to scrutiny of the competent authority and/or Court. The primary ground of the Appellant for seeking rectification is the plea of alleged false user claim of 15.12.1995 by Respondent No. 1; however, as noted hereinabove Appellant has in its written submission specifically stated that it is not inviting a finding on the said issue in this proceeding.

11.4.3. In this regard, this Court would like to record and note that Respondent No. 1 has placed on record, invoices w.e.f. 28.09.2006, which have not been disputed by the Appellant and therefore to this extent, the prior use of the mark 'HP' by Respondent No. 1, w.e.f. 28.09.2006 is not in dispute in these proceedings. The dispute raised in the rectification petition is with respect to Respondent No. 1's user claim since 15.12.1995, which will be decided by the Commercial Court in the commercial suit proceedings. However, the documents evidencing Respondent No. 1's user since 2006 also pre-dates the Appellant's user claim since 2014.

11.5. Appellant has asserted a user claim since 2014. However, the hearing officer in the impugned order has after perusing the documents filed by the Appellant held that the earliest user claim of Appellant is substantiated through invoices for the year 2019.

11.5.1. The Appellant has referred to bills of sales filed at pdf pages 349 to 362. The Appellant has filed bills dated 17.10.2015, 22.09.2016, 22.06.2017, 08.08.2018, 11.02.2019, 16.06.2021, 22.12.2021 and 19.07.2022 issued on its letter head. The hearing officer has held that the invoices for the year 2015, 2016 and 2017 have the mark HP+ written in hand on the invoices and has observed that the said insertion appears to have been made later. This Court has perused the said bills and finds no infirmity



in this finding of the hearing officer disregarding the said invoices which have HP+ written in hand. The finding returned by the hearing officer appears to be plausible and requires no interference.

11.5.2. The Appellant has placed on record bills pertaining to purchase of machinery for manufacturing of self-drilling screws, import bills of self-drilling screws, its ITR and other documents, which all show that Appellant is carrying on the business of self-drilling screws. However, the said documents do not evidence the use or adoption of the mark ‘HP+/**HP+**’, by the Appellant in the year 2014.

11.5.3. Notwithstanding the aforesaid finding of Respondent No. 2 as regards absence of proof of use of the mark ‘HP+/**HP+**’ by the Appellant in its business since 2014; it is the Appellant’s own admitted case that the Appellant adopted the logomark, ‘HP+/**HP+**’ in State of Maharashtra since 10.12.2014.

Assuming the user claim of 2014 to be correct, Respondent No. 1 has however relied upon sales invoices for State of Maharashtra since 2010. As noted above, the Respondent No. 1’s invoices showing use of the mark ‘HP’ w.e.f. 28.09.2006 is not in dispute. In addition, it is a matter of record that Respondent No. 1 was granted pan-India protection for using the mark ‘HP’ w.e.f. 24.11.2014 vide TM No. 2848372. The subsequent registration in favour of Respondent No. 1 is without any territorial limitation. These facts show that Respondent No. 1’s use the mark HP is prior to the Appellant in India as well as in State of Maharashtra.

11.6. Appellant during oral arguments stated that in view of the territorial limitation of TM No. 1566805, Respondent No. 1 be restrained from selling





its products in State of Maharashtra. In this regard, Respondent No. 1 has also filed an interim application seeking this relief. In view of the TM No. 2848372 registration in favour of Respondent No. 1, the said submission of the Appellant has no merit and no restraint can be issued against Respondent No. 1.

Notwithstanding, TM No. 2848372, the effect of TM No. 1566805 is not that Respondent No. 1 is restrained from selling goods with the mark 'HP' in Maharashtra or any other State in India. The effect of the territorial limitation on TM No. 1566805 would only be that Respondent No. 1 cannot claim infringement of its trademark 'HP' in States other than Uttar Pradesh, if there is a use of the trademark by third-parties in the other State. Respondent No. 1 would however still have available its common law rights of passing off if it can establish prior use, goodwill and reputation in the other States. Thus, the submission of the Appellant seeking a restraint against Respondent No. 1 from using the mark 'HP' outside the State of U.P. is without any merits.

12. The findings returned in this appeal can be summarised as under:

- (i) The filing of the CS(COMM) 664/2022 by Respondent No. 1 by itself is not a ground for maintaining the rectification petition.
- (ii) The Appellant's plea that the registration TM No. 1566805 was obtained on basis of a fraudulent claim of user since 15.12.1995 does not survive for consideration in these proceedings as the Appellant has stated that the issue of user claim of 15.12.1995 will be decided in the commercial suit.
- (iii) The territorial limitation in TM No. 1566805 is not applicable *ipso facto* to TM No. 2848372 by virtue of Section 16 of the



Trademarks Act.

(iv) The Appellant has a *locus standi* to maintain the rectification petition.

(v) The Respondent No. 1's documents evidencing use of the mark 'HP' since 28.09.2006 is not in dispute.

(vi) Respondent No. 1's documents evidencing the mark 'HP' in State of Maharashtra since 2010 is also not in dispute.

(vii) Respondent No. 1 cannot be restrained from using the mark 'HP' in State of Maharashtra or other States in India on account of the territorial limitation in TM No. 1566805.

(viii) The effect, if any, of non-disclosure of assignment of TM No. 1566805 by M/s Landmark Fasteners Pvt. Ltd. in favour of Respondent No. 1 prior to applying for TM No. 2848372 will be decided in the rectification petition pending vis-à-vis TM No. 2848372.

13. In view of the aforesaid findings, the present appeal seeking rectification of TM No. 1566805 is therefore dismissed and the impugned order dated 10.11.2022 passed by the Registrar of Trade Marks is upheld.

14. Pending applications, if any, stand disposed of.

**MANMEET PRITAM SINGH ARORA, J**

**DECEMBER 2, 2025/hp/MG**