



2025:DHC:4527



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

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Reserved on: April 28, 2025
Pronounced on: May 28, 2025

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C.O.(COMM.IPD-TM) 243/2021

**CROMPTON GREAVES CONSUMER
ELECTRICALS LIMITED**

.....Petitioner

Through: Mr. Hemant Daswani, Ms. Pranjal,
Ms. Saumya Bajpai and Mr. Kunal
Prakash, Advs.

Versus

**BALI RAM TRADING AS BALI KITCHENWARE
INDUSTRIES AND ANR.**

.....Respondents

Through: Ms. Nidhi Raman, CGSC

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. The petitioner, by this rectification application under *Section 57* of the Trade Marks Act, 1999¹, seeks removal of the impugned mark 'CROMPTON' registered *vide* trademark application no. 516081 in *Class 21*, in the name of respondent no.1.

2. The application was originally filed before the Intellectual Property Appellate Board (IPAB) and has since been transferred to this Court subsequent to the abolition of the Appellate Board in 2021.

¹ Hereinafter referred as "*TM Act*."



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3. The petitioner herein is a public listed company, duly incorporated under the Indian Companies Act, 2013, and is involved in the manufacturing and/ or marketing of consumer electrical goods. The petitioner is the registered proprietor of '**CROMPTON GREAVES**' in *Class 21* since 1943. The predecessors of the petitioner, i.e., Crompton Greaves Limited and Crompton Parkinson Works Limited, were the market leaders in electrical goods, as they sold electrical goods under the name and style of the impugned trademark with effect from 1943. In fact, the said trademark '**CROMPTON GREAVES**' of the petitioner has since been declared a '*well-known trademark*' in terms of *Section 2(1)(zg)* of the TM Act.

4. The respondent no.1 applied for the impugned mark in *Class 21* under application number 516081 in the year 1986, when, admittedly, the registration for the trademark '**CROMPTON GREAVES**' in the very same *Class 21* was validly subsisting in favour of the plaintiff.

5. By way of response to the averments made in the pleadings/ submissions, none has appeared on behalf of respondent no.1 despite service, nor has any reply/ counter-statement been filed on behalf of respondent no.1. Therefore, it is indicative of the fact as shown by the conduct of the respondent no.1 that the respondent no.1 has nothing substantial to put forth on merits.

6. Based thereon, Mr. Hemant Daswani, learned counsel for the petitioner, submitted that the present rectification application is one under *Section 47(1)(a) and (b)* of the TM Act on the grounds of removal of the impugned mark '**CROMPTON**' from the Register of the Trade Marks for



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reasons attributable *inter alia* to the goodwill, prior use and international recognition of petitioner's trademark '**CROMPTON GREAVES**'. As per the learned counsel, the adoption of the impugned mark by the respondent no.1 is *mala fide ab-initio*, since it is apparent from the available records that the petitioner was already not only using but was also the registered proprietor of the trademark '**CROMPTON GREAVES**' in the very same *Class 21* since the year 1943 through its predecessor and is also the registered proprietor of the said mark under multiple classes of trademarks. The learned counsel further submitted that since the impugned mark is identically similar, if not a derivative thereof, it is not liable to remain registered on the Register of Trade Marks, as it has wrongly been granted registration to the respondent no.1.

7. Mr. Hemant Daswani, relying upon *Mankind Pharma Ltd. v. Arvind Kumar Trading and Anr.*², wherein this Court has held that the respondent failed to rebut the petitioner's claim that the impugned trademark had not been used in relation to the registered goods, making it liable for removal under *Section 47(1)(a) and (b)* of the TM Act, and also the contention made therein was that the impugned mark was to be cancelled under *Section 57*, submitted that the present case is also under similar circumstances as the petitioner herein is the prior user and owner of the registered trademark '**CROMPTON GREAVES**' in the very same *Class 21* since long, and the impugned mark herein has wrongly been entered in the Register.

² 2023 SCC OnLine Del 2265.



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8. Thereafter, relying upon *Crompton Greaves Consumer Electrical Ltd. v. Ramesh Kumar M/s. Aggarwal Iron Store & Anr.*³, Mr. Hemant Daswani submitted that since the impugned mark is identical, the likelihood of confusion in this regard is evident, as also relying upon *Midas Hygiene Industries (P) Ltd. v. Sudhir Bhatia*⁴, submitted that an injunction should follow if it *prima facie* appears that the adoption of the impugned mark itself was dishonest.

9. Learned CGSC, in support of the impugned order, submitted that the same is in consonance with the prevailing law and fact.

10. This Court has heard the learned counsel for the petitioner and has also gone through the documents on record, along with the relevant judgments cited at the Bar.

11. As noted hereinabove, despite being duly served the respondent no.1 has not filed any response to the averments raised by the petitioner in the present petition. As such, there being no specific or even general denial of any of the pleadings made by the petitioner, all the averments made therein are deemed to be admitted as true. Reliance is placed upon *Mankind Pharma Ltd. (supra)*, wherein it has been held as under:-

“16. Respondent has failed to rebut the contention of the petitioner that upto a date of three months before the date of the rectification application, a continuous period of five years and longer has expired from the date on which the impugned trademark was registered, during which there was no use of the impugned trademark in relation to the goods covered by registration and therefore, the mark is liable to be removed from the Register under Section 47(1)(b) of the Act.”

³ C.O. (COMM.IPD-TM) 370/2022.

⁴ (2004) 3 SCC 90.



12. Also, it can safely be inferred therefrom that the respondent no.1 has had no reasons and/ or plausible explanation for adopting the impugned mark 'CROMPTON', and that too for similar kind of the products in the very same class i.e. *Class 21* as that of the petitioner, particularly, since it is also dealing in the same field of electrical goods industry, through the same trade channels and for the same customer base.

13. The silence/ non-response of the respondent no.1, under the aforesaid circumstances, casts a serious shadow of doubt upon the intent of the respondent no.1 in proceeding ahead with the adoption. There can seemingly be the sole reason of the respondent no.1 to encash upon the well-established reputation and goodwill of the petitioner in and to its registered trademark '**CROMPTON GREAVES**' to reap undue benefits with hardly any expenditure as also to in turn encroach upon it and their long-standing goodwill and reputation.

14. Considering the aforesaid factual matrix, if the impugned mark 'CROMPTON' of the respondent no.1 is allowed to remain in the Register of Trade Marks, it will give an authority, rather a free hand to the respondent no.1 for using the same in any manner whatsoever. The same is likely to lead to utter confusion and deception amongst the general public, members of the trade, the customers involved as it might well create a false association of the respondent no.1 with the petitioner.



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15. The use of the impugned mark needs to be nipped in the bud, more so, since this Court is dealing with a '*well-known trademark*' of the petitioner, which the respondent no.1 is seeking to come close to.

16. Resultantly, this Court has no hesitation in holding that the petitioner herein is the prior adopter, user, and registered proprietor of its '*well-known trademark*' and is thus a person aggrieved within the meaning of *Section 57(2)* of the TM Act. Also, the registration of the mark '*CROMPTON*' *vide* trademark application no.516081 in *Class 21* is contrary to the provisions of *Sections 11(1) and 11(2)* of the TM Act and is thus liable to be cancelled from the Register of the Trade Marks.

17. Accordingly, the present petition is allowed and the Registrar of Trade Marks is directed to remove the impugned mark '*CROMPTON*' registered *vide* trademark application no.516081 in *Class 21* in the name of the respondent no.1 from the Register of the Trade Marks forthwith.

18. The Registry is directed to send a copy of the present order to the Registrar of Trade Marks for compliance.

19. Accordingly, the present petition is disposed of with no order as to costs.

SAURABH BANERJEE, J.

MAY 28, 2025/AB