



2025:DHC:4519



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **C.A.(COMM.IPD-TM) 19/2024****OSWAAL BOOKS AND LEARNINGS PRIVATE
LIMITED**

.....Appellant

Through: Mr. Abhishek Malhotra, Sr. Adv. with
Ms. Sonal Chhablani, Adv.
M: 9811974357

versus

THE REGISTRAR OF TRADE MARKS

.....Respondent

Through: Ms. Rukhmini Bobde, CGSC with
Mr. Amlaan Kumar and Mr. Uwayak
Aren, Advs.
M: 8826331113

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

JUDGMENT
28.05.2025

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MINI PUSHKARNA, J:

1. The present appeal has been filed under Section 91 of the Trade Marks Act, 1999 ("Trade Marks Act"), and Rule 156 of the Trade Marks Rules, 2017 ("Trade Marks Rules"), seeking to set aside the order dated 14th December, 2023 passed by the Senior Examiner of Trade Marks, whereby, the appellant's Trade Mark Application no. 4711190 in Class 16, for the



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mark “ONE FOR ALL” (“Applied Trade Mark”), in respect of goods, i.e., books, that it publishes and sells, was rejected.

2. The facts, as canvassed in the appeal, are as under:


2.1 The appellant, Oswaal Books and Learnings Private Limited, has been engaged in the business of publishing help books for all leading boards such as Central Board of Secondary Education (“CBSE”), Indian School Certificate (“ISC”), Indian Certificate of Secondary Education (“ICSE”), and the Karnataka Board, as well as national competitive exams such as the Joint Entrance Examination (JEE – Mains & Advanced), National Eligibility cum Entrance Test (“NEET”), Railway Recruitment Boards Non-Technical Popular Categories exam (“RRB-NTPC”), Common Admission Test (“CAT”), and Common Law Admission Test (“CLAT”).

2.2 The appellant owns registrations for trademarks, including,



and OSWAAL BOOKS, details of

which are as under:

Sl. No.	Trade Mark	Registration No.	Class	Validity
1.	OSWAAL BOOKS	5265362	41	29.12.2031
2.	 OSWAAL BOOKS	5265363	16	29.12.2031

2.3 The appellant filed an application for registration of the trademark “ONE FOR ALL” on 20th October, 2020, claiming use since 20th August,



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2020. The application was examined, and an Examination Report dated 04th November, 2020, was issued, raising an objection under Section 9 of the Trade Marks Act, and directing the applicant to furnish a duly executed user affidavit.

2.4 In response, the appellant's counsel submitted a reply to the objections on 3rd December, 2020.

2.5 Pursuant thereto, a hearing notice dated 05th September, 2023, was issued to the appellant, scheduling a hearing for the application on 03rd October, 2023. Prior to the hearing, the appellant filed written submissions on 30th September, 2023, enclosing additional evidence in support of the application. The hearing was attended by the appellant's counsel before the Senior Examiner of Trade Marks, wherein, arguments were advanced, and reliance was placed on the evidence filed.

2.6 Subsequently, respondent no. 1, *vide* order dated 14th December, 2023, refused the application under Section 9(1)(a) of the Trade Marks Act. Aggrieved by the said order, the present appeal has been filed.

3. On behalf of the appellant, the following contentions have been raised:

3.1 The appellant uses the OSWAAL BOOKS trademarks both independently and with taglines/slogans, such as "LEARNING MADE SIMPLE" and "ONE FOR ALL".

3.2 Adopted in 2020, the Applied Trade Mark has continuously, openly, and extensively been used for the appellant's publications, which are available online through the appellant's website and major e-commerce



platforms like Amazon and Flipkart, as well as offline *via* a nationwide network of dealers and distributors.

3.3 In a short span, the Applied Trade Mark has gained significant popularity among consumers. The appellant has invested approximately ₹ 96,42,826/- in promotional activities.

3.4 Despite the voluminous evidence submitted before the Trade Marks Registry, the respondent failed to consider the distinctiveness and secondary meaning acquired by the Applied Trade Mark through its continuous and *bona fide* use.

3.5 The appellant, in its reply to the FER and written submissions, had placed on record substantial evidence demonstrating the mark's usage, promotion, goodwill, and reputation. However, the Ld. Senior Examiner, while considering the application for advertisement in the Trade Marks Journal, merely did a *prima facie* assessment, while he was required to conduct a conclusive adjudication based on legal principles and evidence.

3.6 Before the Trade Marks Registry, the appellant had specifically contended that the Applied Trade Mark is arbitrary, not only due to its unique combination of common words, but also because it does not describe the nature or character of the goods. Substantial evidence was provided to establish reputation, extensive usage, and acquired secondary meaning.

3.7 However, in violation of the Principles of Natural Justice, the Ld. Senior Examiner failed to consider or examine this evidence. The impugned order, along with the written submissions of the respondent filed before the Trade Marks Registry, lacks any discussion or reasoning explaining why the



evidence was deemed insufficient to establish acquired distinctiveness and secondary meaning for the Applied Trade Mark.

3.8 The Applied Trade Mark is not descriptive and acts as a source identifier and fulfils the requisites of a trademark under Section 9 of the Trade Marks Act.

3.9 The expression ‘ONE FOR ALL’ for educational books, is inherently distinctive, and is not a commonplace phrase. Whether the expression/slogan ‘ONE FOR ALL’ is used with a prefix and suffix, has no relevance to establish that the Applied Trade Mark is inherently distinctive, and has acquired distinctiveness in the course of trade.

3.10 Reliance is placed on *Evergreen Sweet House Versus Ever Green and Others, 2008 SCC OnLine Del 1665*, and *Telecare Network India Pvt. Ltd. Versus Asus Technology Pvt. Ltd. and Ors, 2019 SCC OnLine Del 8739*, to submit that arbitrary application of uniquely juxtaposed common words in relation to unrelated goods, are entitled to protection without proof of it having acquired secondary meaning.

3.11 The impugned order dated 14th December, 2023, be set aside and matter be remitted to the Trade Marks Registry, with direction to continue the process of registration of the Applied Trade Mark.

4. *Per contra*, on behalf of the respondent, the following contentions have been raised:

4.1 The Applied Trade Mark, i.e., ONE FOR ALL, has rightly been refused for registration in terms of Section 9(1)(a) of the Trade Marks Act. The Applied Trade Mark is devoid of any distinctive character and is a



combination of very common words, which cannot be monopolised by any individual.

4.2 *Vide* order dated 08th April, 2024, this Court while issuing notice gave a *prima facie* opinion, which is reproduced as under:

“xxx xxx xxx

4. While, in the prima facie opinion of this Court, the Senior Examiner may have been correct that the mark is devoid of any distinctive character, the appellant has to cross the threshold of proving that the mark has achieved significance and distinctiveness in favour of appellant. In this regard, Mr. Malhotra points out to various documents which are on record.

xxx xxx xxx”

4.3 Thus, the appellant herein is required to establish that the Applied Trade Mark has achieved distinctiveness, and has acquired a distinctive character, so as to identify the said mark with the products of the appellant. However, the appellant has failed to establish the same.

4.4 Before the Trade Marks Registry, except for Document VIII, i.e., written submissions of the appellant along with Exhibits, no other documents were adduced for consideration. Documents III to VII relied upon by the appellant, have been filed for the first time in the present appeal.

4.5 The Documents placed before the Trade Marks Registry and before this Court by the appellant do not substantiate, in any way, the distinctiveness of the mark “ONE FOR ALL,” as claimed by the appellant.

4.6 Section 9(1)(a) of the Trade Marks Act prohibits registration of trademarks which are devoid of any distinctive character, that is to say, not capable of distinguishing the goods or services of one person from those of



another person. In order to be registrable, therefore, a mark should be either inherently capable of distinguishing or should be demonstrated to have acquired a distinctive character, as a result of the use made of it before the date of application or it should be a well-known trade mark. In the present case, the appellant has failed to satisfy any of these conditions.

4.7 Descriptive marks can be registered as trademarks, provided secondary meaning is established. Hence, the mark has to be distinctive enough to proceed for advertisement, in the Trade Marks Journal.

4.8 The impugned order dated 14th December, 2023 is a reasoned order, and it is only initially that the word *prima facie* is used by the Ld. Senior Examiner. In subsequent paragraphs, the Ld. Senior Examiner explains on merit why the Applied Trade Mark is refused registration, as the appellant failed to prove distinctiveness of the mark, “ONE FOR ALL”.

5. I have heard learned counsels for the parties and have perused the record.

6. At the outset, it is to be noted that *vide* order dated 08th April, 2024, application, being *I.A. 7807/2024* filed by the appellant, to bring on record additional documents, was allowed. By way of the said application, the appellant brought on record certain documents, which were not filed before the Trade Marks Registry.

7. By the impugned order dated 14th December, 2023, the Registrar of Trade Marks rejected the Trade Mark Application of the appellant for registration of the mark “ONE FOR ALL” in Class 16 for educational books, etc., in the following terms:



“xxx xxx xxx

Objection raised under section 9(1) (a). Perused and considered the material on record.

Prima facie, the trademark “ONE FOR ALL” is devoid of any distinctive character. The applied trademark is a combination of very common words and cannot be monopolized by individual.

It is a well-settled law that common language words or descriptive words or common words and names or single color cannot be trademarked by any trader unless and until such trade names have acquired such a great reputation and goodwill in the market that the common language word has assumed a secondary significance. Secondary significance here would mean that other traders in that line of trade acknowledge that such common words have come to denote the goods belonging to a particular trade.

The Present case also does not fall in category of “proviso” to Section 9 (1). The applicant of impugned mark claimed to be user since 20/08/2020 but failed to produce relevant material / corroborative evidences in support of application for registration.

After perusal of all the documents on record and submission made by the applicant / authorised agent, it is concluded that applied mark is not registrable because of the reason stated as above. Hence application no. 4711190 cannot be accepted and refused accordingly.

xxx xxx xxx”

(Emphasis Supplied)

8. Perusal of the aforesaid order shows that the respondent has refused registration of the Applied Trade Mark on the basis that the same is devoid of any distinctive character, and the said mark being a combination of common words, cannot be monopolized by an individual.

9. Before delving into the present issue, it would be apposite to refer to Section 9 of the Trade Marks Act, which reads as under:



“9. Absolute grounds for refusal of registration.—(1) The trade marks—

(a) which are devoid of any distinctive character, that is to say, not capable of distinguishing the goods or services of one person from those of another person;

(b) which consist exclusively of marks or indications which may serve in trade to designate the kind, quality, quantity, intended purpose, values, geographical origin or the time of production of the goods or rendering of the service or other characteristics of the goods or service;

(c) which consist exclusively of marks or indications which have become customary in the current language or in the bona fide and established practices of the trade, shall not be registered:

Provided that a trade mark shall not be refused registration if before the date of application for registration it has acquired a distinctive character as a result of the use made of it or is a well-known trade mark.”

(Emphasis Supplied)

10. Reading of the aforesaid Section clearly connotes that if any mark is devoid of any distinctive character and which indicates to serve the kind, quality or the intended purpose, then, the same cannot be registered. It is only if such marks have acquired a distinctive character as a result of the use made of it or is a well-known trademark, that such marks shall not be refused registration.

11. Considering the aforesaid position of law, it is to be adjudged as to whether the Applied Trade Mark has acquired distinctiveness, in order to distinguish the goods of the appellant from those of another.

12. The appellant has relied upon various documents in this regard. However, upon perusal of the said documents, it cannot be said that the Applied Trade Mark has attained any distinctive character in order to be



associated exclusively with the goods of the appellant, i.e., educational books. The documents placed before the Trade Marks Registry and before this Court by the appellant, do not substantiate in any way, the distinctiveness of the mark “ONE FOR ALL”, as claimed by the appellant.

13. Document III, as filed by the appellant, is a copy of registration certificate in respect of OSWAAL BOOKS trademarks. Thus, the said document has no relevance for establishing distinctiveness for the mark “ONE FOR ALL”.

14. Document IV, is copy of Chartered Accountant’s (“CA”) Certificate, showing Annual Sales figures and Advertisement Expenses of OSWAAL BOOKS, for the brand category, “ONE FOR ALL” for the years 2020 to 2023. However, when the said document is considered with Document VI, showing the invoices towards the sale of appellant’s goods, it is established that the Annual Sales figures and the Advertisement Expenses pertain to the overall books published and sold by the appellant under its mark OSWAAL BOOKS. Therefore, Document IV does not substantiate the case put forth by the appellant.

15. Document V, is a screenshot of the website of the appellant showing the awards and accolades which have been received by the appellant with respect to OSWAAL BOOKS. The said document does not state anywhere about the mark “ONE FOR ALL”, or makes any reference to the said mark.

16. Document VI, pertains to invoices, which have been filed to evidence sale of the appellant’s goods for the years 2020 to 2021. However, perusal of the entries of the said invoices, make it apparent that out of all the entries in the invoices, the goods bearing the Applied Trade Mark, i.e., “ONE FOR



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ALL”, appears only few times. Thus, the said document also fails to establish either substantial sale or that the Applied Trade Mark has achieved any distinctive character *qua* the appellant’s goods, i.e., educational books. Further, the invoices, as filed by the appellant, do not substantiate the revenue as provided in the CA certificate, through the said entries.

17. Document VII, is a copy of the CA certificate showing the Annual Advertisement and Promotional Expenditures and Annual Sales in respect of the books of the appellant under the brand category, “ONE FOR ALL”. However, the said document again does not aid the submission of the appellant in any manner. The appellant has failed to provide any bills/ data/ invoices to substantiate the quoted figures. The appellant has also failed to produce any bills/ data/ invoices to show that the revenue earned and expenses incurred were with respect to the use of the mark “ONE FOR ALL”. Rather, when considered with the entries in the invoices as filed in Document VI by the appellant, the Applied Trade Mark is referred to only few times. Thus, the CA certificate filed by the appellant does not establish the claims made by the appellant with regard to the Applied Trade Mark.

18. Document VIII, is the copy of the written submissions filed by the appellant before the Trade Marks Registry, along with Exhibits. The submissions made by the respondent with regard to the various documents, which were submitted as Exhibits along with its written submissions before the Trade Marks Registry, by the appellant, is reproduced as under:



“xxx xxx xxx

Exhibit A

The Reply to the Examination Report dated 03.12.2020 failed to establish that the refused TM has acquired secondary meaning as per the proviso of S. 9(1) and thereby didn't overcome the S. 9(1)(a) objection raised by the TMR.

Exhibit B

The said document is a screenshot of the OSWAAL BOOKS website and does not have any reference to “ONE FOR ALL”

Exhibit C

The said invoice dated 20.08.2020 shows that one entry i.e. 2. CBSE One For All 10 Science (2021) (R) – 10 Units. Astonishingly, the said invoice is a printing order. The copy of the said book was not relied upon by the Appellant. The said invoice fails to provide any insight into how the refused TM was used in the said book.

Exhibit D

The present document has screenshots of YouTube Videos/Shorts. It is pertinent to note that all the titles and



taglines come with a prefix & suffix of the refused TM. They are:

- CBSE One For All Class 10 (Science & Mathematics)
- One For All OLYMPIADS
- CBSE & NCERT One For All Class 12 Mathematics
- One for All Question Bank
- NCERT One For All UPSC
- NCERT One For All History/Geography

Hence, the refused TM is not used in isolation but with a prefix or a suffix or both.

Exhibit E

The document is the screenshots of the websites of firstcry.com, flipkart and amazon showcasing the products with the refused TM. It is established through the same that the Appellant does not use the refused TM in isolation but with a prefix or a suffix or both.

Exhibit F

The document shows the rating of two books sold on Amazon with the titles "Oswaal One For All Workbook, Class-1 , General Knowledge (For Latest Exam) Paperback - 5 April 2023" and "Oswaal One For All Workbook Class 4 English, Math, Science & General Knowledge (Set of 4 Books) (For Latest Exam) Product Bundle - 23 May 2022". The said document establishes that the



Appellant does not use the refused TM in isolation but with a prefix or a suffix or both.

Exhibit G

The document is a booklist. The said document also establishes that the Appellant does not use the refused TM in isolation but with a prefix or a suffix or both.

Exhibit H

It is a document which shows the list of distributors. The said document does not establish or show any connection to the refused TM.

Exhibit I

It is a document that shows a screenshot of the Appellant's website "OSWAAL BOOKS" along with website traffic data for certain keywords and website ownership details. It is highlighted that there is not one entry in the data that shows how many clicks/links/searches for the keyword "ONE FOR ALL" in isolation rather than complete book titles.

Exhibit J

The said document is a page from the draft Trademark Manual regarding slogans. The Appellant is placing reliance that the refused TM is used as a slogan. The said submissions have no merit since the slogan cannot have a



prefix or a suffix wherever used. It is also highlighted that the refused TM “ONE FOR ALL” is similar to the commonplace phrase i.e. “ALL IN ONE”. Hence, the refused TM has failed to show distinctiveness and establish that it is used as a slogan.

Exhibit K

Case Laws relied on by the Appellant.

Exhibit L

The said document is the User Affidavit filed on 03.12.2020 by the Appellant before the Ld. Registrar of TM. It is submitted that the said User Affidavit is incomplete as the Appellants have failed to establish continuous use and only provided two print orders dated 26/28.08.2020 & 23/24.09.2020 to show continuous use. The said affidavit has no reference to the sale/advertisement expenses for the promotion of the products/goods.

xxx xxx xxx”

19. Perusal of the aforesaid shows that as regards the Exhibits filed by the appellant before the Trade Marks Registry, *Exhibit A* was reply of the appellant to the Examination Report. *Exhibit B* was a screenshot of the Oswaal Books website, with no reference to the mark “ONE FOR ALL”. *Exhibit C* pertained to only one printing order invoice, wherein, out of five books, only one book bears the mark “ONE FOR ALL”. *Exhibit D* provides



for YouTube videos of the appellant, and reviews of third parties. However, the earliest video for the said mark “ONE FOR ALL” is only from the date 21st July, 2022, which neither substantiates the claimed user of the year 2020, nor, the mark having achieved any distinctive character. Further, the Applied Trade Mark is not used in isolation, but with a prefix or suffix as also evident from *Exhibits E, F, G and I*. Further, *Exhibit H* shows the list of distributors of the appellant and does not establish any connection with the Applied Trade Mark, i.e., “ONE FOR ALL”.

20. Thus, it is evident that the appellant has failed to establish that the mark “ONE FOR ALL” has acquired distinctiveness. It cannot be said that the Applied Trade Mark has acquired goodwill and reputation amongst the members of the trade and the consumers, so as to associate the Applied Trade Mark, with the appellant alone. The documents filed by the appellant primarily only highlight the user, achievements and revenue associated with “OSWAAL BOOKS”, rather than demonstrating that “ONE FOR ALL” has acquired independent recognition or secondary meaning. Therefore, the documents filed by the appellant fail to establish the distinctiveness for the Applied Trade Mark.

21. Further, in all the documents adduced by the appellant, it is nowhere shown that the mark “ONE FOR ALL” is recognised and known in isolation. Rather, the said mark is always accompanied with the prefix or suffix, in relation to OSWAAL BOOKS. This fact further fortifies the position that the appellant has failed to establish a secondary meaning as per the proviso to Section 9(1) of the Trade Marks Act.



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22. It is a settled legal principle that for a trademark to acquire distinctiveness and qualify for registration under the proviso to Section 9(1) of the Trade Marks Act, the mark must be capable of distinguishing the goods or services of one proprietor from those of others. Mere extensive use does not automatically confer distinctiveness unless the mark has acquired a secondary meaning in the minds of consumers. In the present case, the appellant's own submission that "ONE FOR ALL" caters to all segments of students, for all leading boards and competitive examinations, suggests that the mark is descriptive rather than distinctive. Furthermore, the consistent use of the mark in conjunction with "OSWAAL BOOKS" indicates that there is no distinctiveness in the mark, or distinct use of the Applied Trade Mark "ONE FOR ALL", alone.

23. Thus, considering the fact that the appellant is stated to be engaged in the business of publishing help books for all leading boards, as well as National Level Competitive Exams and Entrance Tests, the books of the appellant, under the mark "ONE FOR ALL", suggests to cater to all segments of students, regardless of the examination or education board they pertain to, thereby, giving the mark, "ONE FOR ALL" a descriptive character. By use of the mark "ONE FOR ALL", the appellant leaves an impression that their books are a one stop solution for everyone, regardless of the examination or board, they pertain to.

24. This Court in the case of *Ilua Sole Proprietorship Concern of Mrs. Vidushi Chawla Versus Asian Hobby Crafts LLP and Another*, 2024 SCC OnLine Del 8299, has held as follows:



“xxx xxx xxx

13. It is a settled position of law that no one can claim exclusive rights over generic and/or descriptive terms of words which define a product, in a manner that a complete monopoly is created in favour of one person to use the word and exploit the word to the exclusion of others.

[See *Panacea Biotec Ltd. v. Recon Ltd.*, 1996 SCC OnLine Del 508, *Geep Flashlight Industries Ltd. v. The Registrar of Trade Marks*, 1971 SCC OnLine Del 340 and *M/s. Hindusthan Development Corporation Ltd v. Deputy Registrar of Trade marks*, 1954 SCC OnLine Cal 228]

14. In view of the discussion above, in my considered view, the registration granted to Respondent No. 1 in respect of the mark “DREAMCATCHER” is contrary to the bar contained in Section 9(1) of the Trade Marks Act, 1999.

xxx xxx xxx”

(Emphasis Supplied)

25. At this stage, reliance may be placed on *McCarthy on Trademarks and Unfair Competition*, [Volume 1, 5th Edition], wherein the author Mr. J. Thomas McCarthy, on registrability of “slogans as trademarks” has expounded as follows:

“xxx xxx xxx

§ 7:19 Slogans as trademarks

A “slogan” is usually defined as a relatively short advertising phrase which accompanies other marks such as house marks and product line marks. **To achieve trademark or service mark status, a slogan must be used in such a way as to identify and distinguish the seller's goods and services from those of others.** If so used, slogans have long been registered and protected against uses by others which are likely to confuse purchasers. For example, use of the slogan “Where There's Life. . . There's Bugs” on insecticide floor wax was enjoined as an infringement of Anheuser-Busch's slogan for beer “Where There's Life . . . There's Bud.”

.....

Merely Informational Slogans. If a slogan serves merely to convey information and not to identify and distinguish a single source of goods or services, then it has not been used as a protectable trademark. Unless the advertiser takes some steps to emphasize, set apart and draw attention to informational or commonly used words or



images, the chances are that viewers will see it as just another bit of merchandising puffery or informational message and not as an indicator of origin. Even when prominently displayed, these kind of indicia may not perform the job of identifying source. This is discussed at § 3:5. For example, “Drive Safely” was held not used as a trademark for VOLVO autos. The slogan “Proudly Made In USA” used on REMINGTON electric shavers was not used as a trademark, but merely to tell the buyer the place where the product was made.

The Trademark Board remarked that while some commonly used informational phrases such as “Sale Today” or “We Sell at Low Prices” would probably never be perceived as marks, the slogan “Take A Closer Look” was separately featured in such a way as to be used as a service mark for banking services.

xxx xxx xxx

§ 7:23 Slogans as marks—Common phrases used as a slogan

Commonly-Used Commercial Phrases and Slogans Rarely Achieve Trademark Service Mark

....

Failure to Use a Slogan in a Trademark Sense. In many cases, commonly used slogans cannot be registered or protected as valid trademarks because they are not used in a trademark sense and will not be perceived by customers as trademarks. Both the U.S.P.T.O. and the Trademark Board use the terminology “failure to function” when referring to a use of a designation in a non-trademark manner. That is, when refusing to register a designation because the evidence shows it has not been used as a trademark, the ground of rejection is that there is a failure to function” as a trademark. The Trademark Board observed that: “Many of the Board’s failure to function cases have dealt with phrases in the American vernacular that were found to be incapable of functioning as marks due to their nature.

The slogan “Goin’ The Extra Mile” used by vehicle tire dealers was held not infringed under Lanham Act § 43(a) by “We Go That Extra Mile” used in advertising by defendant AMOCO gas stations. The rule of thumb is that the more commonly a phrase is used in everyday parlance, the less the likelihood that it will be recognized by customers as a mark. In that case, the plaintiffs slogan was held to be used descriptively to convey a message, not to serve as a mark.

Similarly, it was held that the laudatory slogan “We Treat You Right” used by DAIRY QUEEN fast food outlets could not be used as a



*basis for a preliminary injunction to prevent defendant's use of the slogan in renting home television and audio equipment. **The court viewed the slogan as too commonly used to justify exclusive rights:** “[W]e see no advance to the public interest in permitting an enterprise to monopolize one form of announcing, Hey, we are good?”*

xxx xxx xxx”

(Emphasis Supplied)

26. Thus, it is evident that slogans, particularly, those which are descriptive or commonly used phrases, face a significantly high threshold for registration, unless they have acquired a secondary meaning. This authoritative text underscores that merely placing a slogan prominently on goods or advertisements, does not suffice to establish the same, as a source identifier, unless consumers have come to associate that phrase uniquely with the applicant's goods or services.

27. In the present case, the phrase “ONE FOR ALL” is a common, laudatory slogan, clearly suggestive of the appellant's intention to project its books as a universal solution for various academic needs. The appellant's own submission that its' publications cater to multiple school boards and national level competitive examinations, when juxtaposed with the applied mark “ONE FOR ALL”, confirms that the mark functions descriptively conveying that the appellant's books are suitable for everyone, across all exams and boards. Such use of the phrase directly describes the intended utility of the goods, and hence, is not arbitrary in the context of the appellant's business.

28. This Court further takes note of the submission of the respondent, as follows:



“xxx xxx xxx

12) It is also submitted that “Tous pour un, un pour tous” (All for one, and one for all) is a motto traditionally associated with the titular heroes of the novel “The Three Musketeers” written by Alexandre Dumas père, first published in 1844.

xxx xxx xxx”

(Emphasis Supplied)

29. The aforesaid fact points out to the popularity and common use of the expression/mark “ONE FOR ALL”, subject matter of the present appeal. The above-said novel is a classic literature, which is read widely and has also been adapted in films, television, web series, stage, animation, etc.

30. Holding that words of ordinary English usage cannot be monopolized and cannot be registered, this Court in the case of ***Institute of Directors Versus Worlddevcorp Technology and Business Solutions Pvt. Ltd. and Others, 2023 SCC OnLine Del 7841***, has held as follows:

“xxx xxx xxx

28. It is well settled that words of ordinary English usage cannot be monopolised. Else, the entire English language would be appropriated by a few, which can obviously not be permitted. There is, therefore, in Section 9(1)(a), an absolute proscription to registration of marks which are inherently lacking in distinctiveness, in that they are incapable of distinguishing the goods or services of one person from those of another. Words of common English usage fall within this category. It is only if the mark has attained secondary significance, by dint of continuous usage and is entitled, therefore, to the benefit of proviso to Section 9(1), that such a mark can be registered. Otherwise, words of common English usage, even when put together to form a phrase of common English usage, cannot be registered. No monopoly can be claimed by the registrant of such a mark.

xxx xxx xxx”

(Emphasis Supplied)



31. Expressions such as “ONE FOR ALL”, as in the present case, and “ALL IN ONE”, when used in context of books clearly indicate the descriptive use of the term for universal usage by all. Allowing a single entity like the appellant, to register and own such common expressions of the language, would restrict the use of the language, which cannot be allowed.

32. The case, *Evergreen Sweet House Versus Ever Green and Others, 2008 SCC OnLine Del 1665*, relied upon by the appellant, does not serve the appellant. In the said case, the mark in question, i.e., EVERGREEN, was being used for a long time since the year 1965 and the said mark was being used for completely unrelated goods, i.e., sweets. The said case also discusses on the scope of registrability of marks, wherein, it is held that marks which are suggestive, arbitrary and fanciful are entitled to protection for being inherently distinctive, while generic and descriptive marks are unregistrable.

33. The other judgments relied upon by the appellant are also clearly distinguishable, and do not apply to the facts and circumstances of the present case. The said judgments pertain to marks, wherein, the court held that the marks in question did not describe or relate to the features of the products and services, or were not found to be words of common English usage. However, the same is not the position in the present case, in view of the detailed discussion hereinabove.

34. The appellant has failed to discharge the burden of proving acquired distinctiveness, or secondary meaning through credible and persuasive evidence. Mere reliance on sales figures, promotional expenditure, or broad



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assertions of popularity, without cogent documentary substantiation connecting such use exclusively to the mark “ONE FOR ALL”, is insufficient. The documents filed by the appellant before the Trade Marks Registry and before this Court, predominantly pertain to the primary mark “OSWAAL BOOKS” and not to the Applied Trade Mark, *per se*. Additionally, the scant instances, where the mark “ONE FOR ALL” appears, are either in combination with other marks or used as part of slogans, not as a standalone indicator of trade origin. The invoices, promotional content, and online reviews cited by the appellant do not demonstrate continuous, exclusive, or prominent use of the Applied Trade Mark in a manner, that would qualify it for registration on account of having acquired distinctiveness. In the absence of inherent distinctiveness, and in light of the appellant’s failure to establish secondary meaning, the impugned order of refusal is well-founded in law, and merits no interference.

35. Accordingly, in view of the aforesaid discussion, no merit is found in the present appeal. The same is accordingly, dismissed.

**(MINI PUSHKARNA)
JUDGE**

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