



2026:DHC:5103



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

% *Judgment reserved on: 08.05.2026*
Judgment delivered on: 15.06.2026

+ **C.O. (COMM.IPD-TM) 120/2025**

**ANUJ BINDAL MESSRS AGGARWAL RICE
AND OIL MILLS**

.....Petitioner

versus

UNION OF INDIA & ANR.

.....Respondents

Advocates who appeared in this case

For the Petitioner : Ms. Nishi Shabana and Ms. Simar,
Advocates.

For the Respondents : Ms. Nidhi Raman, CGSC with Mr.
Om Ram and Ms. Nikita Singh,
Advocates for R-1.
Ms. Deeksha Gulati, Mr. Vikrant
Malhotra and Mr. Bhavesh, Advocates
for R-2.

**CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA**

JUDGMENT

TEJAS KARIA, J

I.A. 24863/2025

1. This is an Application filed on behalf of Mrs. Sunita Devi (“**Applicant**”) under Order XXII Rule 10 read with Section 151 of the Code of Civil Procedure, 1908 (“**CPC**”) seeking substitution of Respondent No. 2, Mr. Tarsem Chand, sole proprietor of *M/s R.D. Traders* by the Applicant in C.O. (COMM.IPD-TM) 120/2025 (“**Rectification Petition**”).



2. Respondent No. 2 is the husband of the Applicant. Respondent No. 2 had registered the Trade Mark, 'DOUBLE KABOOTAR BRAND' bearing Registration No. 5574981 in Class 31 on 19.08.2022 (“**Subject Mark**”).

3. Respondent No. 2 *vide* Assignment Deed dated 01.08.2025 (“**Assignment Deed**”) had assigned all rights in the Subject Mark to the Applicant. The Assignment Deed had been filed before the learned Registrar of Trade Marks on 04.08.2025.

SUBMISSIONS ON BEHALF OF THE PETITIONER

4. The learned Counsel for the Petitioner made the following submissions:

4.1. The Assignment Deed had already been held to be false and frivolous by this Court *vide* order dated 25.09.2025 in the Rectification Petition. Since this Court had already recorded a finding to that effect, no substitution based on the same document can be entertained. The relevant extract from the order dated 25.09.2025 is reproduced hereunder:

“6. This Court has perused the affidavit which fails to disclose the pending proceedings. Thus, the affidavit filed by the assignor and assignee with Form TM-P is ex-facie false and ought to be rejected.”

4.2. The validity and proprietorship of the Subject Mark is *sub judice* in the Rectification Petition. Any purported assignment or transfer of rights in the Subject Mark during the pendency of the Rectification Petition is barred by the doctrine of *lis pendens* and cannot confer any enforceable title upon the Applicant. The present Application is a clear attempt to evade this Court’s prior findings and misuse the legal process to resurrect rights that have already been held invalid.



4.3. The Applicant cannot derive any independent right or *locus standi* to be impleaded as a party in the Rectification Petition merely on the basis of a fraudulent document.

4.4. Accordingly, the present Application is liable to be dismissed.

SUBMISSIONS ON BEHALF OF THE APPLICANT

5. The learned Counsel for the Applicant made the following submissions:

5.1. Respondent No. 2 *vide* the Assignment Deed had assigned all rights in the Subject Mark to the Applicant, sole proprietor of *M/s T.C. Agro* having its office at near R.D. Dharam Kanta, Agroha Road, Barwala, Hisar, Haryana – 125121.

5.2. Insofar as the observation contained in the order dated 25.09.2025 that the affidavit filed by Respondent No. 2 before Respondent No. 1 in support of Form TM-P for the purpose of recording the name of the Applicant as the subsequent proprietor of the Subject Mark by virtue of the Assignment Deed executed between Respondent No. 2 and the Applicant, failed to disclose the pendency of the Rectification Petition and was, therefore, *ex facie* false and liable to be rejected. It was submitted that Respondent No. 2 had no knowledge of the Rectification Petition either at the time of attestation of the affidavit on 02.08.2025 or at the time of its filing before Respondent No. 1 on 04.08.2025. It was further submitted that the said affidavit, having been duly attested on 02.08.2025 and filed on 04.08.2025, preceded Respondent No. 2's acquisition of knowledge of the pendency of the Rectification Petition on 07.08.2025, which was listed for hearing on the immediately



succeeding date, i.e., 08.08.2025. Accordingly, order dated 25.09.2025, did not render any final finding with respect to the affidavit in question.

5.3. The Applicant also filed an Original Appeal against the order dated 15.01.2026 passed by the learned Joint Registrar (Judicial), whereby the Applicant's application being I.A. No. 968/2026 in the Rectification Petition seeking condonation of 27 days delay in filing the Counter Affidavit. *Vide* order dated 10.02.2026, the said Appeal was allowed and the order dated 15.01.2026 was set aside with direction to consider the application for condonation of delay after decision in the present Application.

5.4. Accordingly, the present Application is liable to be allowed.

ANALYSIS AND FINDINGS

6. The present Application has been filed by the Applicant, Mrs. Sunita Devi, seeking her substitution in place of Respondent No. 2, Mr. Tarsem Chand, on the ground that he has assigned all rights in the Subject Mark to her *vide* Assignment Deed. The Applicant is the wife of Respondent No. 2.

7. At the outset, the sequence of events as borne out from the record is necessary to be considered. The Assignment Deed was executed on 01.08.2025, and the affidavit in support of Form TM-P was attested on 02.08.2025 and filed before the learned Registrar of Trade Marks on 04.08.2025. Respondent No. 2 asserts that he acquired knowledge of the pendency of the Rectification Petition only on 07.08.2025 subsequent to both the execution of the Assignment Deed and the filing of the Affidavit before Respondent No. 1.



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8. The Applicant contends that the Assignment Deed constituted a *bona fide* commercial transaction undertaken without the knowledge of the pendency of the Rectification Petition.

9. The observation contained in order dated 25.09.2025 express serious reservations regarding the genuineness of the Assignment Deed and had found the same to be false and frivolous. However, the said observations were made in context of I.A. 24108/2025 under Order XI Rule 1(5) of the CPC for placing on record the Assignment Deed and Form TM-P filed by Respondent No. 2 and the Applicant before Respondent No. 1.

10. Respondent No. 2 has explained the reasons for not mentioning the pendency of the Rectification Petition in the affidavit filed along Form TM-P as Respondent No. 2 was not aware about the pendency of the Rectification Petition.

11. A perusal of the order dated 08.08.2025 passed by the learned Joint Registrar (Judicial) shows that, despite the Petitioner not having filed the process fee for service of notice upon Respondent No. 2, the learned Counsel for Respondent No. 2 entered appearance and service was consequently deemed to have been affected on 08.08.2025. There is nothing on record to indicate that the Rectification Petition had been served upon Respondent No. 2 prior to the execution of the Assignment Deed. However, the timing of the execution of the Assignment Deed on 01.08.2025 by Respondent No. 2 in favour of the Applicant, who is his wife, coupled with the attestation of the affidavit on 02.08.2025 and its filing before Respondent No. 1 on 04.08.2025, immediately preceding the listing of the Rectification Petition before the learned Joint Registrar (Judicial) on 08.08.2025 for completion of service, as



well as the appearance of the learned Counsel for Respondent No. 2 in the absence of prior service, does give rise to suspicion.

12. It is further noted that Respondent No. 2 engaged the learned Counsel by filing a *Vakalatnama* on 07.08.2025, pursuant to which the learned Counsel entered appearance on 08.08.2025. However, no submission was advanced on behalf of Respondent No. 2 at the hearing on 08.08.2025 in relation to the execution of the Assignment Deed, although Form TM-P had already been filed before Respondent No. 1 that time by the same learned Counsel on behalf of the Applicant herein.

13. The present Application came to be filed only on 20.09.2025. In these circumstances, the explanation advanced by the Applicant and Respondent No. 2 that they were unaware of the pendency of the Rectification Petition at the time of execution of the Assignment Deed does not inspire confidence. It is further noted that the Application in Form TM-P for recording of the change of name in the Register of Trade Marks remains pending consideration before Respondent No. 1.

14. Hence, at present, Respondent No. 2 continues to be the registered proprietor of the Subject Mark in the Register of Trade Marks. The Applicant will become the proprietor of the Subject Mark only once the Application in Form TM-P is considered and allowed by Respondent No. 1 in accordance with law. Accordingly, it would be premature to grant substitution of the Applicant in place of Respondent No. 2 at this stage.

15. Having regard to: (i) the observation contained in the order dated 25.09.2025 that the affidavit filed along with Form TM-P was *ex facie* false and liable to be rejected; (ii) the timing of execution of the Assignment Deed on 01.08.2025 by Respondent No. 2 in favour of his wife and the filing of



Form TM-P, without disclosure of the pendency of the Rectification Petition, immediately prior to the first hearing on 08.08.2025 after issuing notice in the Rectification Petition; (iii) the appearance entered in the Rectification Petition on 08.08.2025 by the same learned Counsel who had filed Form TM-P, despite the absence of prior service of the Rectification Petition; (iv) non-disclosure of the Assignment Deed by the learned Counsel for Respondent No. 2 at the hearing of 08.08.2025; and (v) the explanation advanced that Respondent No. 2 was unaware of the pendency of the Rectification Petition at the time of execution of the Assignment Deed, this Court is of the view that the prayer sought in the present Application for substitution of Respondent No. 2 by the Applicant in the Rectification Petition cannot be allowed unless and until the Application in Form TM-P, which is stated to be pending, is decided after due consideration of the above factual aspects.

16. At present, Respondent No. 2 continues to be the registered proprietor of the Subject Mark. If and when the Applicant is recognized as the proprietor of the Subject Mark pursuant to the Assignment Deed and the decision in Application in Form TM-P, it shall be open to the Applicant to seek substitution in place of Respondent No. 2 in accordance with law.

17. Accordingly, the present Application is dismissed at this stage in view of the foregoing discussion. This Application stands disposed of with liberty to the Applicant to approach this Court for substitution, if so required, at an appropriate stage.

C.O. (COMM.IPD-TM) 120/2025, I.As. 12752/2025, 24108/2025 & 29662/2025

18. List on 20.08.2026.

TEJAS KARIA, J

JUNE 15, 2026/‘N