



2025:DHC:3334



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

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*Date of decision: 01<sup>st</sup> May, 2025*

+ C.O. (COMM.IPD-TM) 25/2025 &amp; I.A. 3215/2025

BOON RAWD BREWERY CO LTD.

.....Petitioner

Through: Mr. Vishal Nagpal, Mr. Debjoti Sarkar  
and Ms. Suhrita Majumdar, Advocates

versus

YUNNAN XIANGKENG  
TRADING CO. LTD. & ANR.

.....Respondents

Through: Ms. Nidhi Raman, CGSC with  
Mr. Debasish Mishra, Advocates for  
R-2**CORAM:****HON'BLE MR. JUSTICE AMIT BANSAL****AMIT BANSAL, J. (Oral)**

1. The present petition has been filed under Sections 47 and 57 of the

Trade Marks Act seeking removal/cancellation of the device mark

registered under application no.3850584 in class 32 in favour of the  
respondent no.1 on 5<sup>th</sup> April, 2019 on a '*proposed to be used*' basis.**PROCEEDINGS IN THE PETITION**2. Notice in the petition was issued *vide* order dated 7<sup>th</sup> February, 2025  
and two weeks' time was granted to the respondent no.1 to file a reply. The  
Predecessor Bench also stayed the registration of the impugned mark till the



next date of hearing.

3. On 3<sup>rd</sup> March 2025, it was recorded that despite service, neither any reply was filed on behalf of the respondent no.1, nor was any appearance made on behalf of the respondent no.1.

4. Even today, none appears on behalf of the respondent no.1.

**BRIEF FACTS**

5. Brief facts leading to the filing of the present petition are as follows: -
- 5.1. The petitioner is a Thai company founded in 1933 and is engaged in the manufacturing and selling of *inter-alia*, international quality beers and other alcoholic and non-alcoholic beverages. The Petitioner is Thailand's first and largest brewery company.
  - 5.2. The petitioner had adopted the trademark 'SINGHA' in 1933 and commenced use of the trademark 'SINGHA' in 1934 by launching beer under the SINGHA brand.
  - 5.3. It is stated that the word SINGHA and the mystical lion device (lion device) form the prominent and essential feature of the label variants of petitioner's 'SINGHA' trademarks and have come to be solely associated with the petitioner.
  - 5.4. The petitioner has registered its SINGHA trademarks across several prominent jurisdictions worldwide, including Australia, Singapore, Japan, Hong Kong, Israel, South Korea and Taiwan and the like.
  - 5.5. In respect of its operations in India, the petitioner has been openly, extensively and continuously selling its goods under the SINGHA trademarks in India since the year 2008.
  - 5.6. The petitioner has various registrations in its favour in India, details of which have been given in paragraph no.15 of the petition.



5.7. It is stated that the petitioner's goods under the SINGHA trademarks have achieved tremendous sales in India, which are *prima facie* evidence of the immense goodwill and reputation associated with the petitioner's SINGHA trademarks.

6. Thus, being aggrieved by the subsistence of the impugned registration, the present rectification petition has been filed.

#### **SUBMISSIONS OF THE PETITIONER**

7. Mr. Vishal Nagpal, counsel appearing on behalf of the petitioner submits that the impugned registration has been obtained dishonestly and in bad faith by the respondent no.1 the registration granted in favour of respondent no.1 is in violation of the provisions of Section 9(2)(a) and Section 11 of the Trade Marks Act, 1999.

8. He further submits that the respondent no.1 registered the impugned mark on the '*proposed to be used*' basis after the petitioner entered the Indian market for beer and was already widely popular across the world.

9. It is submitted that the petitioner has spent immense amount of time, resources, effort and expense in use and promotion of its marks and has also obtained registrations for the same and due to such voluminous use and promotion of the petitioner's marks, the same is inextricably linked with the petitioner and the relevant section of the public is well aware of the goods under the applied mark as being rendered by the petitioner alone.

10. He further submits that the impugned mark has copied the mystical lion device and the word SINGHA from petitioner's trademarks, thereby rendering itself a slavish copy of petitioner's earlier SINGHA trademarks, in violation of petitioner's rights, statutory and common law rights in the SINGHA trademarks.



2025:DHC:3334



11. It is submitted that respondent no.1 can have no plausible reason behind adoption of the impugned mark which is identical/deceptively similar to the petitioner's prior trademarks 'SINGHA'



for identical goods as that of the petitioner.

12. It is further submitted that respondent no.1 has infringed the petitioner's intellectual property rights in SINGHA trademarks on previous occasions also, on account of which the petitioner and respondent no.1 have contested several proceedings in other jurisdictions, wherein the petitioner has obtained favourable orders against respondent no.1 which have been filed along with the present petition as document no.13 of the petitioner's documents.

13. It is submitted that the impugned goods claimed under the impugned mark are identical to the goods under the petitioner's prior trade mark which increases the chances of confusion between the respondent no.1 and the petitioner. It is stated that the respondent no.1 has registered the impugned mark with an intent to cause confusion to the public at large.

14. In light of the above, it is stated that the impugned mark has been wrongly entered in the Register of Trade Marks and therefore, is liable to be cancelled in terms of Sections 47 and 57 of the Act.

15. Accordingly, the petitioner has filed the present petition.

#### **ANALYSIS AND FINDINGS**

16. I have heard counsel for the petitioner and perused the record of the present petition.



17. The respondent no.1 has not filed his reply to the present petition, which indicates that he has nothing substantial to put forth on merits, by way of a response to the averments made in the petition. In view of the above, the averments made in the petition are deemed to be admitted.

18. A side-by-side comparison of the petitioner's device mark and the impugned device mark is tabulated below:

Impugned Mark	Petitioner's SINGHA trademarks
	

19. A perusal of the aforesaid would show that respondent no.1 has adopted a mark which is almost identical to the registered trademarks of the petitioner.

20. The respondent no.1's impugned mark has copied the lion device and the word SINGHA from the petitioner's trademarks and thus, has substantially reproduced all the essential elements and dominant features of the Petitioner's SINGHA trademarks.

21. As evident from the aforesaid, the impugned mark is identical with the petitioner's device marks and is registered in class 32 in relation to identical/similar goods and services.

22. The impugned mark was wrongly granted registration by respondent no.2 in violation of *inter alia* Section 11 of the Trade Marks Act, 1999 read with Rule 33 (1) of the Trade Marks Rules, 2017 as respondent no.2 failed to cite the prior SINGHA trademarks of the petitioner.

23. Further, the impugned mark is not capable of distinguishing any goods



of respondent no. 1 from petitioner and is of such a nature as to deceive the public and cause confusion and therefore stands registered in violation of Sections 9 (1)(a) and 9 (2)(a) *read with* Section 57 of the Trade Marks Act, 1999.

24. It is clear that the respondent no. 1 is a habitual infringer of the petitioner's rights in the SINGHA trademarks and the petitioner has obtained favourable orders against the respondent no.1 in various foreign jurisdictions.

25. Considering the aforesaid, I am of the view that the impugned mark is likely to cause confusion and deception among the consumers who are ordinary persons of average intelligence and imperfect recollection, especially as the petitioner has been using the petitioner's SINGHA marks since the year 2008 and has acquired immense goodwill and reputation thereunder.

26. The respondent no.1's registration of the impugned mark was executed with a clear intent to appropriate the petitioner's device mark and amount to 'bad faith' and fall squarely within the scope of sub-section (10) (ii) of Section 11 of the Act. Additionally, the respondent no.1's failure to contest the present suit further indicates that they registered the impugned mark in 'bad faith'.

27. In the light of the aforesaid, it is clear that the impugned trade mark has been adopted by the respondent no.1 dishonestly to trade upon the established goodwill and reputation of the petitioner and to project itself to be associated with the petitioner. The attempt on the part of respondent no.1 was to appropriate the petitioner's marks and therefore the continuation of the registration of the impugned mark granted in favour of respondent no.1 is in violation of Section 11(10)(ii) of the Act and is liable to be cancelled under the provisions of Section 57 of the Act.

28. Accordingly, the present petition is allowed and the Trade Mark



2025:DHC:3334



Registry is directed to remove the impugned registered trademark bearing trade mark registration no.3850584 in class 32 from the Register of Trade Marks within four weeks from today.

29. The Registry is directed to supply a copy of the present order to the office of the Controller General of Patents, Designs and Trademarks of India on the e-mail- *llc-ipo@gov.in* for compliance.

**AMIT BANSAL, J**

**MAY 1, 2025**  
**ds**