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

% *Date of decision: 21st March, 2025*

+ C.O. (COMM.IPD-TM) 509/2022

SANSAR GRAMODYOG MANDAL

INDUSTRIAL AREA, BIWANI, HARYANA

.....Petitioner

Through: Mr. Shivendra Pratap Singh,
Mr. Navdeep Suhag and Ms. Mehak
Khanna, Advocates

versus

ARORA GRAM YDYOOG VIKAS MANDAL,

INDUSTRIAL AREA, BHIWANI, HARYANA

.....Respondent

Through: Ms. Shambhavi Sharma, Advocate

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present rectification petition has been filed by the petitioner seeking removal of the mark "TAJ" bearing registration no.432174 in Class 3.
2. The present rectification petition was filed before the erstwhile Intellectual Property Appellate Board ('IPAB') on 29th October 2012. Thereafter, the present petition was received on transfer after the abolition of the IPAB pursuant to the Tribunal Reforms Act, 2021.
3. A counter statement dated 12th June 2013 had been filed on behalf of the respondent organisation, and a rejoinder thereto dated 30th October 2013 had been filed on behalf of the petitioner.

4. Counsel for the petitioner relies upon the Assignment Deed executed by the respondent organisation in favour of the petitioner on 27th June 2011, in terms of which, the mark “TAJ SOAP”, which was pending registration before the Trade Marks Registry under application no. 671176, was assigned in favour of the petitioner. The relevant extracts from the assignment deed are set out below:-

“THIS DEED OF ASSIGNMENT is made [sic: on] the 27th day of June, 2011 by M/s. Arora Gramoudyog Vikas Mandal, Industrial Area, Bhiwani-125021 (Haryana), hereinafter called the Assignor (which expression shall includes [sic: include] the heirs, successors and representatives of the Assignor) in favour of M/s. Sansar Gramoudyog Mandal, Industrial Area, Bhiwani-125021 (Haryana), hereinafter called the Assignee (which expression shall includes [sic: include] the heirs, successors and representatives of the Assignee).

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NOW THIS DEED WITNESSES that in pursuance of the said agreement and in consideration of the said sum of Rs.1000/-(Rupees one thousand) only is paid by cash on 01-06-2011 by the said Assignee to the Assignor, receipt whereof the said Assignor hereby acknowledges, the Assignor hereby assigned upon the terms hereinafter mentioned the exclusive use and benefits of the aforesaid trade mark "TAJ SOAP" in relation of Washing Soaps and Detergents for sale in the states of Haryana and Rajasthan manufactured by M/s. Arora Graraoudyog Vikas Mandal, Bhhyani- 125021 alongwith the goodwill.

AND THE ASSIGNOR hereby covenants with the assignee that the assignor shall not infringe the trade mark "TAJ SOAP" and/or any of identical with and/or deceptively and confusingly similar trade mark merely resembling it as to cause confusion and deception and/or likely to deceive the

purchasing public in relation to the goods in respect of which it is assigned and in a manner as to render the use of this trade mark likely to be taken either as being used of the said trade mark or to import a reference to the Assignor.

[Emphasis is mine]

5. It is submitted on behalf of the petitioner that the aforementioned Assignment Deed was duly signed by one Mr. Vijay Kumar, who was the Pradhan and the authorised signatory of the respondent organisation at the relevant point of time.

6. It is submitted that the Assignment Deed clearly states that the respondent organisation was barred from using any deceptively and confusing similar mark that resembles the mark “TAJ SOAP”, which had been assigned to the petitioner herein.

7. The registration of the mark “TAJ” which is the subject matter of the present petition was applied on 11th January 1985, and the trade mark certificate was issued on 11th July 2011, after the execution of the Assignment Deed. In support of the petition, the petitioner has filed various invoices showing the use of the mark “TAJ” from 26th September 2011 to 8th June 2012.

8. It is stated that the assignment was made pursuant to mutual consent between the parties to divide the business, and accordingly, the trade mark “TAJ” was assigned in favour of the petitioner.

9. In the counter statement filed on behalf of the respondent organisation, the only defence taken is that the said Mr. Vijay Kumar fraudulently signed the Assignment Deed as the Pradhan of respondent organisation in favour of the petitioner, whose Pradhan at that point in time

was the brother of Mr. Vijay Kumar.

10. The aforesaid contention has been rebutted on behalf of the petitioner by stating that due consideration was paid by the petitioner to the respondent organisation for the assignment which was duly recorded in the ledger of the respondent organisation as well as in the respondent organisation's cash book, a copy of which has been filed along with the rejoinder.

11. I have heard the counsel for the parties.

12. A perusal of the Assignment Deed would show that as per the terms of the Assignment Deed, the respondent organisation could not use the mark "TAJ SOAP" or any other mark deceptively similar mark with respect to washing soaps and detergents. Clearly, the mark "TAJ", which is the subject matter of the present petition, is almost identical to the mark "TAJ SOAP" which has been assigned by the respondent organisation in favour of the petitioner and in respect of identical goods. Therefore, the adoption of a deceptively similar mark "TAJ" by the respondent organisation, after assigning the mark "TAJ SOAP" in favour of the petitioner, is likely to cause confusion amongst the traders as well as the purchasing public.

13. The respondent organisation has taken a defence that the Assignment Deed was signed fraudulently. However, the said Assignment Deed has not been challenged by the respondent organisation.

14. The meeting of the respondent organisation was held on 27th July 2011, subsequent to the execution of the Assignment Deed, wherein Mr. Vijay Kumar resigned as Pradhan and a new Pradhan was appointed. The minutes of the meeting clearly record that all members expressed satisfaction with the overall functioning of the respondent organisation and

no wrongdoing was recorded on behalf of Mr. Vijay Kumar. Therefore, the claim that Mr Vijay Kumar had fraudulently executed the Assignment Deed is not tenable.

15. In view of the discussion above, it is evident that the adoption of the mark “TAJ” by the respondent organisation is dishonest and in violation of the terms of the Assignment Deed. Therefore, the mark under “TAJ” under no. 432174 in class 3 in relation to goods such as washing soap, toilet soap, and detergent powder is liable to be expunged from the Register of Trade Marks under section 57 of the Trade Marks Act, 1999.

16. Accordingly, the petition is allowed and the mark “TAJ” under no. 432174 in class 3 is directed to be removed from the Register of Trade Marks.

17. The Registry is directed to send a copy of this order to the Trade Marks Registry on email llc-ipo@gov.in for compliance.

18. All pending applications stand disposed of.

AMIT BANSAL, J

MARCH 21, 2025

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