



2026:DHC:1134



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 3rd February, 2026*

+ C.A.(COMM.IPD-TM) 33/2024

M/S. ADS AGRO INDUSTRIES PVT. LTD.Appellant
Through: Mr. Ankit Sahni and Mr. Chirag
Ahluwalia, Advocates.

versus

THE REGISTRAR OF TRADE MARKSRespondent
Through: Ms. Rupali Bandhopadhaya, CGSC
with Mr. Amit Peswani, Advocate.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. This appeal is filed by the Appellant under Section 91 of the Trade Marks Act, 1999 ('1999 Act') challenging impugned order dated 29.01.2024 in respect of Appellant's Trademark Application No.4997781 in Class 33. Direction is sought to the Respondent to process the application for the mark 'TAJPURIYA' and advertise the mark in the Trademark Journal.
2. It is the case of the Appellant that Appellant is a company, which is one of the fastest growing liquor conglomerates in Indian alcohol beverage space and is engaged in the business of manufacturing, marketing, trading and selling liquor products. Appellant, honestly and *bonafidely* adopted the trademark TAJPURIYA in respect of alcoholic beverages and alcoholic preparations for making beverages. The mark is arbitrary in relation to the goods and is inherently distinctive.



3. It is stated that on 08.06.2021, Appellant filed a trademark application before the Respondent seeking registration of the mark TAJPURIYA in Class 33 on 'proposed to be used' basis. In the Examination Report dated 24.06.2021, Respondent raised an objection under Section 9(1)(a) of the 1999 Act, on the ground that it was a geographical name and not capable of distinguishing the goods and services of one person from another. Appellant gave a reply dated 26.06.2021, pointing out that Appellant's mark was arbitrary and distinctive of the goods in question and has no connection with any geographical region. Post the receipt of reply, Respondent issued a hearing notice and after conducting the hearing on 03.01.2024, passed the impugned order refusing registration of the mark in Class 33 *inter alia* on the ground that the mark was devoid of any distinctive character and therefore, was not registrable owing to the provision of Section 9 of the 1999 Act.

4. Learned counsel for the Appellant submits that the impugned order is wholly illegal and is predicated on the perception of the Respondent that the mark TAJPURIYA is devoid of distinctive character i.e., not capable of distinguishing the goods or services of one person from the other. This perception is based on the fact, as recorded in the order, that Tajpuriya is one of the indigenous tribes of Nepal, who have been living in the plains of Terai Region. They also live in parts of India i.e., in States of Bihar, West Bengal, Sikkim, Darjeeling, etc., and alcohol is a must in all religious rituals. It is urged that there are two apparent flaws in the impugned order. Firstly, the ground that the mark cannot be registered under Section 9 owing to the fact that Tajpuriya is the name of a tribe in Nepal and India, where alcohol is used in all rituals, was not the objection raised in the Examination Report dated 24.06.2021. A perusal of the report shows that the objection



was that the mark is a geographical name and therefore, clearly the ground in the impugned order goes beyond the objection in the Examination Report, which is impermissible in law. Resultantly, Appellant had no opportunity to contest the ground and file a reply to the same, which violates the laid down procedure as also principles of natural justice.

5. It was urged that Respondent has also failed to consider the detailed reply filed to the Examination Report highlighting that the mark was inherently distinctive and arbitrary to alcohol and alcoholic beverages. Most importantly, Appellant had pointed out that arbitrary marks are entitled to high degree of protection and even where the mark is one of geographical origin, it can be registered if it is used in an arbitrary manner. Appellant also placed reliance on the judgment of the Gujarat High Court in *Sahkar Seeds Corporation v. Dharti Seeds, 2017 SCC Online Guj 2577*, to support this plea, however, none of these points were considered by the Respondent and registration has been refused on a totally extraneous ground.

6. Ms. Rupali Bandhopadhaya, learned CGSC appearing for the Respondent defends the impugned order and submits that the order is a well-reasoned and speaking order. The mark sought to be registered by the Appellant lacks inherent distinctiveness owing to the reason that Tajpuriya is the name of one of the indigenous tribes of Nepal and alcohol is a must in all the religious rituals performed by members of the tribe. People belonging to this tribe are also found residing in many parts of India and hence, the registration was rightly refused.

7. After hearing learned counsels for the parties, I find merit in the contentions raised by the Appellant. Indisputably, when the Appellant applied for registration of the mark TAJPURIYA on 08.06.2021 vide Trademark Application No. 4997781 in Class 33, an objection was raised by



the Respondent in the Examination Report dated 24.06.2021 under Section 9(1)(a) on the ground that the mark had a geographical name and was thus incapable of distinguishing the goods. A detailed reply dated 26.06.2021 was filed by the Appellant, in which it was brought forth that the mark TAJPURIYA was an arbitrary mark in relation to alcohol and alcoholic beverages and inherently distinctive and hence, registration cannot be refused under Section 9(1)(a). Appellant also stated, without prejudice, that even assuming that Tajpuriya was a geographical name, being arbitrary it enjoyed a high degree of protection and could be registered and to support this proposition relied on the judgment in *Sahkar Seeds (supra)*. However, this objection was possible waived and a new ground was taken in the impugned order that Tajpuriya was an indigenous tribe, wherein people were using alcohol in their rituals.

8. Counsel for the Appellant is right that the impugned order cannot be sustained on two grounds. Firstly, the ground taken in the impugned order was not raised as an objection in the Examination Report and hence, Appellant had no opportunity to respond to the same. Secondly, the objection raised in the report does not find mention in the impugned order. It is anybody's guess that the objection was waived but if not, Respondent does not deal with the points raised by the Appellant in the detailed reply filed that the mark is arbitrary and hence entitled to high degree of protection as also treated as an exception, even assuming it has geographical origin, which fact the Appellant strenuously refutes. On both these grounds the impugned order cannot be sustained.

9. Accordingly, for the aforesaid reasons, the impugned order dated 29.01.2024 is set aside and the matter is remanded to the Respondent to re-examine the Trademark Application No.4997781 of the Appellant for



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registration in Class 33 from the stage of hearing after considering the reply to the Examination Report. Needless to state that before taking the final decision, Respondent shall grant opportunity of hearing to the Appellant. The entire exercise will be completed within two months from today.

10. The appeal is disposed of in the aforesaid terms.

JYOTI SINGH, J

FEBRUARY 3, 2026/RW/AK