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

% *Date of Decision: 30th March, 2026*

+ C.O. (COMM.IPD-TM) 28/2025

AJP IMPEX PRIVATE LIMITEDPetitioner
Through: Ms. Aparna Jain and Mr. Ishan Berry,
Advocates.

versus

THE REGISTRAR OF TRADEMARK DELHI & ANR.
.....Respondents
Through: Ms. Nidhi Raman, CGSC for R-1.
Respondent No. 2 is *ex parte*.


CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. This petition is filed by the Petitioner under Section 57 of the Trade Marks Act, 1999 ('1999 Act') read with Rule 7 of the Delhi High Court Intellectual Property Rights Division Rules, 2022 seeking cancellation/removal of the mark 'M FOLD' (word) bearing Application No. 6391583 granted in favour of Respondent No.2.
2. Petitioner is stated to be engaged in the business of filter paper, paper, paper coffee filters, paper tissues and napkins, toilet rolls etc., as also other household products which it is selling since 2016, through its predecessor entities and the registered trademarks of the Petitioner are



ELLA/  in Class 16 covering the product lineage of tissue papers etc. The business is carried on extensively through offline as also online modes on various e-commerce platforms such as Amazon, Flipkart, Meesho etc. Respondent No.2 is trading in tissue papers in Class 16.

3. Learned counsel for the Petitioner contends that the mark M FOLD is merely an abbreviated form of the word 'Multifold', which is commonly used for tissue papers and is inherently descriptive. The term M fold has been interchangeably used as Multi fold by manufacturers for decades to specify the category of the product i.e., tissue papers and Petitioner has also been selling its products under the brand ELLA with product description as M fold since 2016, which is evident from the invoices placed on record. The words M fold/Multi fold generally refer to paper products that are folded in a specific way to allow for easy dispensing and use. The letter 'M' typically denotes a particular folding style, where paper is folded in a way that creates a series of 'M' shaped pleats or folds and this folding style is a standard practice in the tissue paper industry. Hence, no party can monopolize over the mark M FOLD being generic and describing the product. Being descriptive, the mark M FOLD ought not to have been registered owing to the provisions of Sections 9(1)(a) and (b) and 17(2)(b) of the 1999 Act.

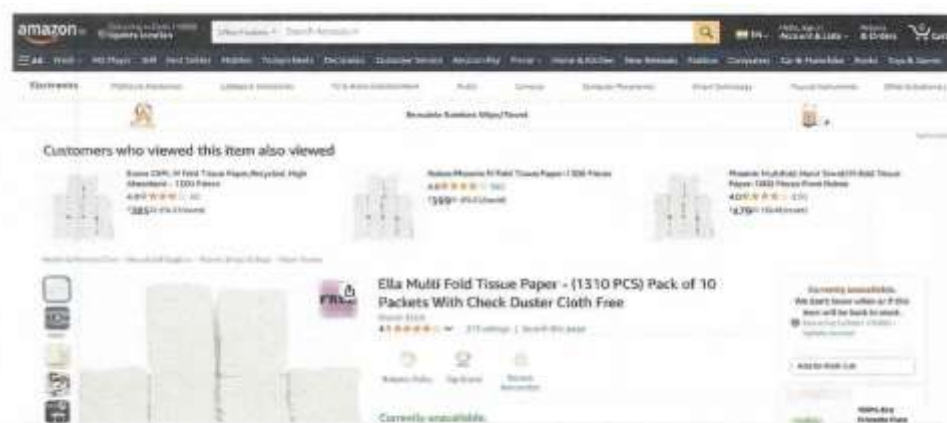
4. It is further urged that Petitioner and other competing brands have been continuously and extensively selling their products under the description 'Multifold' tissue paper and a simple Google search reveals various companies selling the products with a description M fold as follows:-



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5. It is argued that Petitioner has spent enormous amount of money and valuable time since 2016 to commence and promote its business through Amazon and other e-commerce sites and has garnered immense reputation and goodwill amongst its customers in India owing to quality products sold under the mark ELLA and descriptor M fold tissues. However, due to the registration of the mark M FOLD in favour of Respondent No.2, within less than a year, Amazon has removed the listing of Petitioner's company without looking into the fact that Petitioner was selling its goods under its own registered mark ELLA and M fold was only a trade description. Respondent No.2 had applied for the mark on 17.04.2024 on 'proposed to be used' basis and Examination Report ('ER') was issued on 29.08.2024 and on 23.01.2025, the Registrar of Trade Marks granted registration without looking into the inherent distinctiveness of the mark owing to which it cannot serve to distinguish Respondent No.2's goods from those of the others. It is also urged that a basic search across several prominent e-commerce platforms yields results prominently featuring Ella with the product description M-FOLD of the Petitioner as also listings of several other players in the field, who are also using M fold as a descriptor, as follows:-





6. It is argued that the impugned registration is causing unfair restriction on the business of the Petitioner inasmuch as Petitioner is unable to list its products on the e-commerce websites owing to complaints by Respondent No. 2 as registered proprietor of the mark M FOLD, despite the registration being against law and hence, the Petitioner is the 'person aggrieved' under Section 57(2) of 1999 Act, entitle to seek cancellation of the registration. In ***Institute of Directors v. Worlddevcorp Technology and Business Solutions Pvt. Ltd. and Others, 2023 SCC OnLine Del 7841***, this Court has held that English words of common usage which could not belong to any one proprietor *prima facie* defeat Plaintiff's right to claim exclusivity. Proprietary rights are a *sine qua non* for a claim to exclusivity to be sustained and absent proprietary rights over the mark, there can be no exclusivity. Thus, the impugned registration deserves to be cancelled, according to the Petitioner.

7. Respondent No. 2 is the contesting Respondent. However, he chose not to contest the present proceedings despite service of notice and was proceeded *ex parte* vide order dated 15.12.2025. No steps have been taken by Respondent No. 2 for recall of the order and/or join the proceedings thereafter.

8. Ms. Nidhi Raman, learned CGSC appearing on behalf of Respondent No. 1 submits that the contention of the Petitioner that the impugned mark is generic being a mere abbreviation of multi fold is misconceived. Perusal of authoritative English dictionaries including Cambridge/Collins/Oxford Dictionaries demonstrates that M FOLD or M-fold is not a recognized dictionary word and therefore, cannot be classified as descriptive or generic. At the examination stage, the mark was evaluated as a whole and was found



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capable of distinguishing the goods of Respondent No. 2. Due process was followed before registering the mark. Report was issued on 29.08.2024 and the mark was accepted and advertised in the Trade Marks Journal recording in the search report that no similar or conflicting marks were found on record and there was no objection to acceptance. Upon advertisement, mandatory four month statutory opposition period was allowed and during this period, from 29.08.2024 to 29.12.2024, neither Petitioner nor any other party filed Notice of Opposition and hence, on expiry of the statutory period, Respondent No. 1 was legally bound under Section 23(1) of 1999 Act to register the trademark and no infirmity can be found with the registration.

9. Heard learned counsels for the parties and examined their submissions.

10. This petition is filed under Section 57 of 1999 Act for cancellation/removal of registration of trademark 'M FOLD' (WORD) bearing Application No. 6391583 granted in favour of Respondent No. 2 with other reliefs. Petitioner is the registered proprietor of the marks ELLA/



and is engaged in the business of filter paper, tissue papers, toilet rolls, paper napkins etc. The trigger for filing the present petition was when Petitioner's listing was removed from an e-commerce portal on 29.01.2025 basis the complaint filed by Respondent No. 2 since Petitioner's product was listed under its trademark ELLA but with M fold as a descriptor of its products. The primordial contention of the Petitioner is that M FOLD is a generic and descriptive mark and ought not to have been registered owing to absolute bar under Section 9(1) of 1999 Act read with Section



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17(2). Petitioner has placed on record several screenshots/search results which show a number of entities using M fold by way of describing their product i.e., tissue papers. It is explained that in the concerned industry, the letter 'M' is used to describe the manner in which the paper is folded by creating 'M' shaped pleats or folds and the word M FOLD is only an abbreviation of 'Multifold', which is used across the trade to describe the product and hence, no party can claim a monopoly on M FOLD.

11. Section 9(1)(a) of 1999 Act provides that 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 cannot be registered i.e., there is an absolute bar for registration of such a trademark. Similarly, there is an absolute bar in registration of trademarks, 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 services, under Section 9(1)(b). Respondent No. 2 has consciously chosen not to contest the proceedings and the averments in the petition are deemed to be admitted.

12. It is rightly pointed out by counsel for the Petitioner that the impugned mark M FOLD is merely an abbreviated form of multi fold, which is descriptive in respect of tissue papers since it denotes the folding style of the papers in a tissue box and as demonstrated by the Petitioner through documents/screenshots on record word M FOLD is used by several entities engaged in the concerned business. Petitioner has placed on record Google search results as also screenshots of e-commerce websites where several



entities have used 'M fold' alongside their respective trademarks only to denote and describe the product. The impugned mark is therefore descriptive to the goods in question and lacks distinctiveness to distinguish the goods of Respondent No. 2 from goods of others in the field. It is a settled position of law that no one can claim exclusive rights over generic and/or descriptive terms/words as this would unlawfully restrict other parties from using such words. Contention of Respondent No. 1 that laid down procedure for accepting and advertising the impugned mark was followed and/or there was no opposition can be of no aid, once it is found that the mark is inherently descriptive and commonly used in trade.

13. In view of the above, I am of the view that registration granted in favour of Respondent No. 2 in respect of mark M FOLD is contrary to the absolute bar under Section 9(1)(a) and (b) of 1999 Act and deserves to be cancelled.

14. Accordingly, this petition is allowed and Registration bearing No.6391583 in respect of trademark M FOLD (WORD) granted in favour of Respondent No. 2 in Class 16 is cancelled. Respondent No. 1 is directed to remove the trademark from the Register of Trade Marks and rectify the same for the sake of purity of the Register. The needful shall be done within two months from today.

15. Petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

MARCH 30, 2026/AK