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IN THE HIGH COURT OF DELHI AT NEW DELHI*Date of decision: 11th September, 2023**Date of decision: 13th September, 2023*

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C.A.(COMM.IPD-TM) 46/2021

STP LIMITED

..... Appellant

Through: Mr Shivendra Pratap Singh and Mr
Navdeep Suhag, Advocates (M:
8826906894).

versus

REGSTRARS OF TRADE MARKES

..... Respondent

Through: Mr Harish Vaidyanathan Shankar
CGSC with Mr Srish Kumar Mishra
Mr Sagar Mehlawat and Mr
Alexander Mathai Paikaday, and Mr
M Sriram, Advocates.**CORAM:****JUSTICE PRATHIBA M. SINGH****JUDGMENT****Prathiba M. Singh, J.**

1. This hearing has been done through hybrid mode.
2. The present appeal has been filed by the Appellant - STP Limited seeking setting aside of the impugned order dated 3rd January, 2019 passed by the Hearing Officer (Senior Examiner of Trade Marks) whereby the Appellant's application has been refused for registration. The details of the application are as under:



Trade Mark	ShaliSBR Latex (Device)
Trade Mark Application No.	2887882
Class	19
Goods	Building material (non-metallic); Bonding Admixture; Bonding adhesive for slurry coats, mortars and concrete to improve strength and weather resistance
User Claim	12 th October, 1998
Date of filing	21 st January, 2015

3. Mr Shivendra Pratap Singh, Id. Counsel for the Appellant submits that the impugned order merely rejects the application on the ground that it is objectionable under Section 9/11 of the Trade Marks Act, 1999.

4. Id. Counsel for the Appellant further submits that in the Examination Report, an objection was raised under Section 11 of the Trade Marks Act, 1999 that the applied trademark 'ShaliSBR Latex' bears identity or similarity with the earlier cited marks. The details of the said marks are as under:

- (i) 'SHALITEX' bearing no. 314481 in Class 19
- (ii) 'ShaliBar' bearing no. 2056757 in Class 19
- (iii) ShaliRx' bearing no. 2441800 in Class 19
- (iv) 'ShaliTex Expansion Joint Board RB' bearing no. 2462518 in Class 19

5. Id. Counsel for the Appellant submits that insofar as the cited marks at 4(ii), 4 (iii) and 4(iv) are concerned, the same belong to the Appellant. Insofar as cited marks at 4(i) is concerned, the mark 'SHALITEX' bearing



no. 314481 in Class 19 is registered in the name of Shalimar Tar Products (1935) Ltd. Ld. counsel for the Appellant submits that the same was the earlier name of the Appellant.

6. Ld. Counsel for the Appellant also brings to the notice of this Court the substantial number of registrations with the prefix 'SHALI' which has been registered in the name of the Appellant herein.

7. The Court has heard ld. Counsels for the parties and perused the record.

8. A perusal of the impugned order would show that the order dated 31st December, 2018 passed by the Hearing Officer (Senior Examiner of Trade Marks) is completely cryptic and merely rejects the application on the ground that it is objectionable under Section 9/11 of the Trade Marks Act, 1999. The relevant part of the impugned order reads as under:

“ The trade mark applied for is objectionable under Section 9/11 of the Act. The application is accordingly refused.”*

9. The record reveals that the Appellant has more than a hundred registrations for several marks with the 'SHALI' prefix such as 'SHALI PLASTIC', 'SHALIGRIP', 'SHALIDECK', etc. The word mark 'SHALI' is also registered in favour of the Appellant. The details of the registrations which are granted in favour of the Appellant are filed on record.

10. In the present case, since all four marks cited in the examination report belong to Appellant, the impugned order dated 3rd January, 2019 is not sustainable, considering the overwhelming use and registrations of 'SHALI' branded marks as also the mark 'SHALI' by the Appellant.



11. Accordingly, the application no. 2887882 shall proceed for advertisement in the trade mark journal. Let the same be advertised within three months.
12. It is made clear that the present order would have no impact on opposition proceedings, if any, which may be filed against the application.
13. Accordingly, this appeal along with all pending applications is allowed in the above terms.
14. The Registry is directed to supply a copy of the present order to the office of the Controller General of Patents, Designs & Trademarks of India on the e-mail- llc-ipo@gov.in for compliance of this order.

PRATHIBA M. SINGH
JUDGE

SEPTEMBER 13, 2023

Rahul/kt