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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ C.O. (COMM.IPD-TM) 667/2022
+ CS (OS) 2408/1985
+ W.P.(C)-IPD 28/2021
+ W.P.(C)-IPD 29/2021
+ W.P.(C)-IPD 31/2021
+ W.P.(C)-IPD 32/2021
+ W.P.(C)-IPD 33/2021
+ W.P.(C)-IPD 34/2021
+ W.P.(C)-IPD 35/2021
+ W.P.(C)-IPD 36/2021
+ W.P.(C)-IPD 38/2021
+ W.P.(C)-IPD 39/2021

M/S. P.M. DIESELS P. LTD.

..... PETITIONER

versus

M/S. THUKRAL MECHANICAL WORKS
& ORS.

..... RESPONDENTS

AND

+ CS (COMM) 473/2016

SUMITA RANI PROP.THUKRAL MECH. WORKS

..... Plaintiff

versus

NITIN MACHINES TOOLS AND ORS.

..... Defendants

Appearances:

Mr. N. Mahabir, Ms. Noopur Biswas & Mr. P.C. Arya, Advocates (M: 9166036065) for Petitioners.

Mr. Sachin Gupta, Mr. Ajay Kumar, Ms. Yashi Agrawal, Ms. Swati Meena, Ms. Gaurangi Sharma & Mr. Rohit Pradhan, Adv. (M: 9811180270)

Mr. Harish Vaidyanathan Shankar, CGSC, with Mr. Srish Kumar Mishra, Mr. Sagar Mehlawat and Mr. Alexander Mathai Paikaday, Advs. (M: 9810788606) for CGPDTM.



CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **02.04.2024**

1. This hearing has been done through hybrid mode.
2. Today, vide separate judgment, the above matters have been disposed of. The summary of the conclusions in each of the matters is set out below:

Summary of conclusions

<i>Suit No. 1: P.M. Diesels Pvt. Ltd. v. Thukral Mechanical Works [CS (OS) 2408/1985]</i>	<i>This suit is decreed in terms of paragraphs 16(i) and 16(ii) of the plaint. Insofar as relief funder paragraph 16(iii) is concerned, six months' time is granted to Thukral Mechanical Works for exhaustion of the stock. No other reliefs are granted.</i>
<i>Suit No. 2: Sumita Rani v. Nitin Machine Tools Pvt. Ltd., Popular Machinery Store, M/s. P. M. Diesels Pvt. Ltd. [CS (COMM) 473/2016]</i>	<i>For the foregoing reasons, this suit filed by Thukral Mechanical Works seeking injunction and other reliefs against P.M. Diesels is dismissed.</i>
<i>Cancellation Petition: P. M. Diesels Pvt. Ltd. v. Thukral Mechanical Works & Registrar of Trade Marks (C.O. No.6/1987) [renumbered as C.O. (COMM.IPD-TM) 667/2022]</i>	<i>The registration in favour of Thukral Mechanical Works bearing no. 228867 dated 13th May, 1965, in Class 7 is cancelled/liable to be removed from the Trade Marks Register. Ordered accordingly.</i>



<i>10 writ petitions: P.M. Diesels Pvt Ltd v. Thukral Mechanical Works, Asst. Registrar of Trade Marks [W.P.(C)-IPD 28/2021 & connected matters]</i>	<p><i>These are ten writ petitions involving trademark applications nos. 423262, 423264, 423260, 423259, 423267, 423261, 423265, 423266, 423258, 423263 dated 16th June, 1984, filed by P.M. Diesels for 'FIELDMARSHAL' mark in Class 7 in different languages. These marks were rejected by the Registrar of Trademarks vide order dated 12th August, 1992 as also by the IPAB vide order dated 11th February, 2005. The said impugned orders are set aside. The trademark applications of P.M Diesels shall proceed for registration.</i></p> <p><i>Let the registration certificates be granted within one month of the date of the present judgment.</i></p>
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3. In respect of the P.M. Diesels' trade mark application no. 389729 dated 10th May, 1982 in class 7, advertised in the Trade Marks Journal No. 902, the following directions have been issued:

“...156. In view of the findings given above, the said opposition files and other original records be sent back to the Office of the CGPDTM who shall consider the opposition as also P.M. Diesels' representation for issuance of a corrigendum. Orders be passed bearing in mind the findings in the present



judgement as well. The Registry is directed to send back the said files to the Office of the CGPDTM. ”

4. Mr. Sachin Gupta, Id. Counsel for Thukral Mechanical Works prays for keeping the judgment under abeyance. As extracted above, this Court has already granted six-months' time to Thukral Mechanical Works for exhaustion of its stock. Thus, the oral request made by Id. Counsel for Thukral Mechanical Works, as prayed for, is accordingly, rejected.

5. The original records from Trade Mark Registry in respect of the following matters:

- Opposition no. DEL4109,
- Trade mark application no. 389729,
- Trade mark application no. 389728,
- Opposition no. BOM6633,
- Opposition no. BOM6164

shall be transmitted back to the concerned department of the CGPDTM by the Registry. For this purpose, the Id. CGSC Mr. Harish Vaidyanathan Shankar shall coordinate with the office of CGPTDM.

6. Insofar as the records of this Court in all these matters is concerned, the original files be returned to the Registry. If the parties wish to take back any original documents, they are free to do so as per the applicable rules, after filing certified copies.

7. For the above purpose, list before the Id. Joint Registrar on 20th May, 2024.

PRATHIBA M. SINGH, J

APRIL 2, 2024*dj/dn*