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

+ W.P.(C)-IPD 23/2025

CIPLA LIMITED

.....Petitioner

Through: Mr. Pravin Anand, Ms. Sugandha Yadav and Ms. Chahat Bhatia, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Nidhi Raman, CGSC with Ms. Nikita Singh, Adv. for R-3/TM
Ms. Karuna Nundy, Sr. Adv. with
Mr. Poornachandiran R., Ms.
Vaishnavi Rao, Mr. Shiv Mehrotra,
Ms. Shivangi Mitra and Mr. Vishnu
Unnikrishnan, Advs. for applicant

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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27.07.2026

CM 298/2025 (by applicant under Order 1 Rule 10 CPC) & **CM 299/2025** (for recall of order dt. 14.05.2025)

1. Considering the factual matrix involved, coupled with the legal issues arising therein, it is imperative to first draw out the backdrop of the proceedings before venturing into adjudication of the two applications filed by the applicant herein.

2. The facts leading to filing of the present applications are such that, the petitioner herein filed a writ petition (hereinafter referred to as the “***captioned petition***”) seeking the following reliefs:-

“a) Issue a writ of mandamus and/ or certiorari and/or any other similar order directing the Respondents to restore the Petitioner's trademark registration 'NO DARAR' bearing application no. 1694972, registered on February 7, 2011.



b) Issue a writ of mandamus and/ or certiorari and/or any other similar order directing the Respondents to permit the Petitioner to file an application seeking renewal of its trademark 'NO DARAR' registered on February 7, 2011, bearing application no. 1694972.

c) Issue any other writ, order, or direction that this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

3. Thereafter, the Trade Marks Registry/ respondent no.3 therein, who was the party against whom the main reliefs were sought, entered appearance. Based on the submissions of the parties, and the materials on record, the captioned petition was disposed of by this Court vide order dated 14.05.2025 in the following terms:-

“1. Considering the nature of the disputes involved, learned CGSC appearing for the Registrar of Trade Marks submits at the outset, that though the O-3 Notice dated 19.03.2018 as uploaded on the official website of the said respondent is available, however, despite searching for the tracking report thereof, the same is not traceable.

2. Accordingly, without going into the merits of the dispute involved, learned CGSC submits that the petitioner herein shall be allowed to file an application for seeking restoration of the trademarks application no. 1694972 in Class 5 as also an application for renewal along with requisite fee within a period of two weeks.

3. Learned counsel appearing for the petitioner submits that the appropriate Form-TM-R shall be filed within a period of four weeks. Needless to say, the respondent no.3 shall proceed with the appropriate steps in accordance with law within a period of four weeks thereafter.

4. The writ petition is disposed of with the aforesaid directions.”

[Emphasis supplied]



4. Thereafter, the petitioner herein filed an application seeking modification of the aforesaid order and directing restoration of the petitioner's trademark vide application no.1694972 in Class 5, which application was also disposed of by this Court vide order dated 30.05.2025 in the following terms:-

“1. By virtue of the present application, the petitioner seeks modification of the order dated 14.05.2025 directing restoration of the petitioner's trademark vide application no.1694972 in Class 5.

2. Learned counsel for the Registrar of Trademarks, upon instructions, submits, that the status of the aforesaid trademark application has since been changed from 'Removed' to 'Registered' in the official website being www.ipindia.gov.in today morning itself.

3. Learned counsel of the Registrar of Trademark also submits that a copy thereof shall be handed over/ filed in due course a copy in view of the aforesaid.

4. Accordingly, since the trademark application is reflecting as 'Registered', there is no requirement of the petitioner to file any application for restoration or to pay the accompanying fees thereof.

5. In view of the aforesaid, learned counsel for the petitioner seeks leave to withdraw the present application as there is nothing survives for adjudication.”

[Emphasis supplied]

5. The aforesaid clearly reflect that only submissions of the parties were recorded in the order dated 14.05.2025. Vide subsequent order dated 30.05.2025, once again, only the submissions advanced by the respondent no.3 were recorded and that the petitioner withdrew its application.

6. Pursuant thereto, the applicant herein approached the Hon'ble Supreme Court vide SLP(C) No.24856/2025 which was disposed of vide



order dated 29.08.2025 in the following terms:-

“... ..2. This petition arises from the order passed by the High Court of Delhi dated 14-5-2025 in Writ Petition-IPD No.23/2025 with CM 88/2025 filed under Section 149 of the Civil Procedure Code by the Respondent No. 1 - herein came to be disposed of permitting the Respondent No.1 to submit an appropriate Form-TM-R within a period of four weeks.

3. The High Court further directed that the Respondent No.3 therein namely the Registrar of Trade Mark shall proceed to take appropriate steps in accordance with law within the time stipulated by the High Court. The petitioner - herein before us was not a party before the High Court. It is gravely prejudiced by what the Court has observed while disposing of the petition filed by the Respondent No.1-herein.

4. In such circumstances, we permit the petitioner to prefer an appropriate application before the High Court and redress its grievances as to why the Order passed by the High Court is causing grave prejudice to them.

5. If any such application is filed, the High Court shall hear the petitioner and decide the same in accordance with law expeditiously.

6. In the event if the High Court proceeds to pass any order adverse to the petitioner, it shall be open for them to come back to this Court.

7. With the aforesaid, the Special Leave Petition stands disposed of.”

[Emphasis supplied]

7. Based thereon, the applicant has now, *rightly*, approached this Court with the present application under *Order I rule 10* Code of Civil Procedure, 1908 seeking impleadment as a party in the captioned petition alongwith another application under *Section 151* of the Code of Civil Procedure, 1908 seeking recall of the order dated 14.05.2025 passed by



this Court.

8. Considering the factual matrix involved, this Court issued notice to both the petitioner as also the respondent no.3 in the present applications particularly, since it was imperative for the applicant to first show if it was indeed a '*necessary and proper party*' for being impleaded in adjudication of the captioned petition and if so, how and why by way of the application under *Order I rule 10* of the CPC before adjudicating the other application under *Section 151* of the CPC.

9. Pleadings in both the applications are complete.

10. Learned senior counsel for applicant, relying upon the order dated 29.08.2025 passed by the Hon'ble Supreme Court in SLP(C) No.24856/2025 submits that the present application stems from the express liberty granted therein to the applicant to approach this Court for seeking appropriate reliefs. She further submits that the directions contained in the order dated 29.08.2025 is for the applicant to be heard in the present proceedings, not for consideration, whether the applicant has a right to be heard in the present proceedings.

11. Learned senior counsel, handing over a composite written submission alongwith two judgments of the Hon'ble Supreme Court in ***M/s. Chopra Hotels Private Limited vs. Harbinder Singh Sekhon & Ors.: 2026 INSC 335*** and ***Prabodh Verma & Ors. vs. State of Uttar Pradesh & Ors.: (1984) 4 SCC 251*** and an order dated 14.12.2006 passed by a Co-ordinate Bench of this Court in W.P.(C). No.23545/2005 entitled "***Times Publishing House Limited vs. The Assistant Registrar of Trade Marks & Ors.***", submits that since the applicant is adversely affected by the order dated 14.05.2025 passed by this Court, the applicant was/ is a



‘*necessary and proper party*’ to the present proceedings, and it ought to be impleaded to the present proceedings.

12. Learned senior counsel further submits that by virtue of the order dated 14.05.2025 passed by this Court, the respondent no.3 i.e. the Trade Marks Registry has perpetuated the applicant’s trademark. For this, she has drawn attention of this Court to the order dated 30.05.2025 also passed by this Court subsequently, to submit that it is apparent therefrom that the respondent no.3 had indeed acted in terms of the earlier order dated 14.05.2025.

13. Lastly, relying upon *Rule 60* of the Trade Marks Rules, 2017, learned senior counsel submits that the perpetuation of the petitioner’s trademark is severely affecting the rights of the applicant, more so, since restoration and/ or renewal of the registration of the petitioner’s trademark is without following the due process of law.

14. *Per contra*, learned counsel for petitioner relying upon ***M/s. Epsilon Publishing House Pvt. Ltd. vs. Union of India & Ors. 2017 SCC OnLine Del 10607; M/s. Epsilon Publishing House Pvt. Ltd. vs. Union of India & Ors. 2018 SCC OnLine Del 7625; as also in Motwane Private Limited vs. Registrar of Trade Marks & Anr. 2024 SCC OnLine Bom 661***, submits that the issue qua which the captioned petition was filed i.e. *qua* renewal of its trademark, which was/ is strictly between the registered proprietor of the trademark i.e. petitioner herein and the Trade Marks Registry, and thus there was no question of any third party right(s) being impleaded in the captioned petition. As such, in view thereof, he submits that as the applicant herein was an outsider, there was no need for it to be impleaded as a party therein. Hence, the present applications ought to be



dismissed.

15. Learned CGSC appearing for the respondent no.3, concurring with the submissions made on behalf of the petitioner herein, submits that since the grievance of the petitioner was limited to the action(s) of the respondent no.3, there was/ is no requirement for the applicant to be impleaded as a party to the present proceedings.

16. This Court has gone through the documents on record, heard learned (senior) counsels for the parties at considerable length as also taken due note of the judgments cited by them at bar.

17. At the outset, this Court notes that the present applications emanate from the liberty granted by the Hon'ble Supreme Court to the applicant to approach this Court for seeking appropriate relief(s). However, for the same, it is incumbent upon the applicant to demonstrate, and also establish, the reasons for its impleadment and that it is a '*necessary and proper party*' to the present proceedings/ captioned petition and it is upon the court to adjudicate "*... .. whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.*".

18. Before proceeding further, for ease of reference, relevant provision(s) of Order I rule 10 of the CPC is reproduced herein as under:-

"10(2). Court may strike out or add parties-*The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose*



presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.”

19. What entails therefrom is that for anyone to be impleaded in any proceedings like the present one under *Order I rule 10* of the CPC, it has to be a case wherein the presence “... .. *may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.*”, and not otherwise. In a nutshell, such a party has to be a ‘*necessary and proper party*’. In fact, for the sake of clarity, it is today well-settled that a ‘*necessary party*’ is one without whom no order can be made effectively, and a ‘*proper party*’ is one in whose absence an effective order cannot be impleaded as its presence is necessary for a complete and final decision on the question/s involved in the proceeding. Thus, the impleadment of the present applicant in the present proceedings, is to be tested on the anvil of it being a ‘*necessary and proper party*’ in the captioned petition.

20. Facts herein reveal that the captioned petition was filed by the petitioner with respect to restoration of its trademark Application No.1694972 dated 07.02.2011 for the trademark ‘NO DARAR’ in Class 5 before the respondent no.3, i.e. the petitioner sought specific reliefs qua its said trademark against the respondents due to (non-)action(s) by the respondent no.3. There were no assertions made and/ or grounds raised and/ or reliefs sought by the petitioner against any other third party, much less the applicant herein. Thus, the captioned petition filed by the petitioner was regarding a *right in personam*.

21. Under such circumstances, *prima facie*, the applicant was a rank



outsider nowhere related and/ or even remotely connected with the facts therein. It, thus, had/ has no locus of being impleaded as a party therein. Today also, the applicant has been unable to demonstrate its locus and/ or able to make out any case for its impleadment as neither any assertions in support thereof nor any submissions have been made by the learned senior counsel on its behalf. There is, thus, hardly any reason for impleading the applicant in the disposed of captioned petition.

22. Qua the contention that by virtue of the order dated 14.05.2025 passed by this Court, the respondent no.3 has perpetuated the applicant's trademark, the same being subsequent event(s), are beyond the very scope and jurisdiction of this Court and cannot be adjudicated upon. The applicant cannot seek to challenge the subsequent acts by the respondent no.3 by way of the present applications in the disposed of captioned petition. If at all the applicant is (being) effected by the subsequent actions taken by the respondent no.3, the present applications, alas, are not the recourse. It is always open to the applicant to take appropriate remedies as available to it in accordance with law, within the stipulated time frame, if any. The applicant is, in fact, estopped from agitating its grievances which took place subsequently, after passing of the orders dated 14.05.2025 and/ or 30.05.2025 by way of these two applications herein.

23. In fact, this Court draws support from the dictum passed by the Co-ordinate Bench of this Court in ***M/s. Epsilon Publishing (supra)***, which has since been affirmed by the Division Bench of this Court in ***M/s. Epsilon Publishing House (supra)***; as also the decision of the Division Bench of High Court of Bombay in ***Motwane Private Limited (supra)*** wherein it has been observed that "... ...the contention that the petitioner



was required to be heard before granting such renewal is also unpersuasive. Concededly, the matters of renewal of the trademark is strictly between the Trademark Registry and the registered proprietor of the trademark. The question of any third party right being considered at that stage does not arise, any person aggrieved by registration of a trademark is entitled to file an application for rectification of the register... ..”, which step/ recourse has admittedly not been taken by the applicant herein till date.

24. Also, the subsequent reliance by the learned senior counsel for the applicant on *Rule 60* of the Trade Marks Rules, 2017 having not been adhered to by the respondent no.3 cannot be adverted to by this Court herein, in view of the aforesaid and since the same was/ is beyond the purview of the present proceedings/ captioned petition.

25. This Court is, though, certainly in agreement with the dictum of the Hon'ble Supreme Court passed in *M/S Chopra Hotels (supra)* and *Prabodh Verma (supra)* and *Times Publishing House (supra)* however, alas, since learned senior counsel has been unable to show their applicability to the facts and circumstances involved herein, there is no need for this Court to dwell upon them.

26. Accordingly, for the aforesaid reasons and analysis, and the legal dictum, the present applications are dismissed, with no order as to costs.

CM 297/2025 (for stay of order dated 30.05.2025)

27. In terms of the aforesaid analysis and findings, since nothing survives in the present application, the same is accordingly dismissed.

SAURABH BANERJEE, J.

JULY 27, 2026/bh/DA