



\$~33(Original)

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

+ **CS(COMM) 56/2022 & I.As. 1203/2022, 7839/2022, 15280/2022**

MS LIGHTBOOK & ANR. Plaintiffs
Through: Mrs. Avnish Ahlawat, Mr. Uday Singh Ahlawat, Mr. N.K. Singh, Ms. Palak Rohmetra, Ms. Laavanya Kaushik & Ms. Aliza Alam, Advs.

versus

MR PRAVIN SHRIRAM KADAM & ORS Defendants
Through: Mr. Jaspreet Singh Kapur and Mr. Manu A. Bhardwaj, Advs.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

% **19.01.2023**

I.A. 1203/2022, I.A. 7839/2022 & I.A. 15280/2022

1. Learned Counsel for the defendants, during the course of arguments, relied on the stand adopted by the plaintiffs in reply to the rectification petition filed by the defendant challenging the registration of the plaintiffs' mark forming subject matter of controversy in the present suit.

2. Para 4 of the said reply reads thus:

"4. The contents of Paragraph 4 are wrong and denied. It is submitted that there is no question of identicalness with respect to Registered Proprietor's Registered Trademark in comparison with Petitioner's Impugned Mark. It is specifically stated that Registered Proprietor's Trademark "LIGHT BOOK ARCHITECTURAL LIGHTING DESIGNERS"/ "lightbook" (Device Mark) and



Petitioner's Impugned Mark is "Lightbook"/ "lightbook" only. It can



be clearly observed that Registered Proprietor's Registered Trademark comprises of five different terms placed in such a way that the same as per common laws, case laws requires to be read as a whole. However, Petitioner's Impugned Mark consists of only single term only which is nowhere similar or identical to Registered Proprietor's Registered Trademark. Hence, such contention of Registered Proprietor having an identical trademark with Petitioner's Impugned Mark stands invalid. It is further submitted that allowing Petitioner's present rectification application will cause irreparable harm Registered Proprietor's established business and impeccable reputation in the eyes of public as the public associate the term Lightbook being known and attached with the Registered Proprietor. As of now there is no cause of confusion on part of the public with respect to Petitioner's Impugned Mark but instead allowing the present rectification application will create huge confusion amongst public at large as Registered Proprietor after getting its mark registration has increased its usage worldwide. It is lastly important to highlight that, Petitioner is providing its services under class 11 and Registered Proprietor is offering services under class 42. Both classes are different from each other, 11 being a class specifically for goods and 42 being the class of services. Therefore, Registered Proprietor rendering services under the service class is nowhere similar or identical to Petitioner business. It is also added that Petitioner is dealing with manufacturing and selling of products through the Impugned Trademark. However, Registered Proprietor is offering consultancy services which is nowhere similar or identical to Registered Proprietor's Registered Trademark. Such different areas of service being offered by Registered Proprietor Registered Trademark is not bound to cause confusion anywhere in public or traders.

3. He has also placed reliance, in this context, on para 43 of the judgment of a Division Bench of this Court in **Raman Kwatra v KEI Industries Ltd.**¹, which has expressed its disagreement with an earlier view, of a learned Single Judge in **Teleecare Networks India Pvt Ltd v. Asus Technology Pvt Ltd**², and held that the stand taken by the plaintiffs before the Trade Mark Registry in order to obtain registration binds the plaintiff even in infringement proceedings at least at the Order XXXIX stage.

¹ 2023 SCC OnLine Del 38

² 2019 SCC OnLine Del 8739

CS(COMM) 56/2022



4. Ms. Ahlawat seeks some time to go through the judgment and advance submissions thereon.

5. Re-notify on 3rd February 2023 as part-heard.

C.HARI SHANKAR, J

JANUARY 19, 2023

dsn