



\$~36

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

+ **CM(M)-IPD 11/2024**

DEEPAK TOMAR DIRECTOR

.....Petitioner

Through: Mr. G. S. Chaturvedi, Mr. Virat
Singh and Mr. Ashok Choudhary,
Advs.

versus

SACHDEVA COLLEGE LTD & ANR.

.....Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% **04.07.2024**

CM 62/2024-Exp

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CM(M)-IPD 11/2024

3. Vide the present petition, the petitioner seeks to challenge order dated 06.03.2024 passed by Shri. Dharmendra Singh, learned ADJ-1 (West), Tis Hazari Courts, Delhi in DJ Suit No. 924/2022 filed by the petitioner whereby an application under Section 124 of the Trade Marks Act, 1999 read with Section 21 of the CPC has been dismissed.
4. Upon petitioner taking requisite steps within a period of one week, issue notice to the respondents through all permissible modes, returnable



on 14.10.2024.

5. Reply, if any, be filed within a period of four weeks from the date of service. Rejoinder thereto, if any, be filed within a period of two weeks thereafter.

6. Renotify on 14.10.2024.

CM 61/2024-Stay

7. By virtue of the present application the petitioner seeks grant of an *ex-parte* ad-interim order for staying the proceedings pending before the Court of Shri. Dharmendra Singh, learned ADJ-1 (West), Tis Hazari Courts, Delhi in DJ Suit No. 924/2022.

8. Learned counsel for the petitioner primarily contends that as is clear from a plain reading of Section 124 of the Trade Marks Act, 1999, the parties to the suit before the learned Trial Court need not be themselves involved in any proceedings pending with respect to the trade mark rectification. He further contends that it is under such circumstances that the proceedings in the suit before the learned Trial Court ought to have been stayed but instead, the trade mark application of the petitioner under Section 124 of the Trade Mark Act, 1999 has wrongly been dismissed.

9. The relevant portion of Section 124 of the Trade Marks Act, 1999 involved herein is reproduced as under:

“124. Stay of proceedings where the validity of registration of the trade mark is questioned, etc.-(1) Where in any suit for infringement of a trade mark-

XXXXX

XXXX

XXXX

(b) the defendant raises a defence under clause (e) of the sub-section (2) of section 30 and plaintiff pleads the invalidity of registration of defendant's trade mark,



the court trying the suit (hereinafter referred to as the court), shall,-

(i) if any proceedings for rectification of the registered in relation to the plaintiff's and defendant's trade mark are pending before the Registrar or the Appellate Board, stay the suit pending the final disposal of such proceedings;"

XXXXX

XXXXX

XXXXX

10. Considering the aforesaid provision of law as also what is borne out from the impugned order, is that there was in fact a Trade Mark rectification application no. 1403362 pending before the Trade Marks Registry, albeit inter-se M/s Annapurna Charitable Trust and the respondent no.1, there shall be a stay of the proceedings pending before the learned Trial Court in DJ Suit No. 924/2022 till the next date of hearing.

11. Accordingly, renotify on 14.10.2024.

SAURABH BANERJEE, J

JULY 4, 2024/rr