

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 18179 of 2023**

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**M/S SHIV TRADING COMPANY****Versus****REGISTRAR OF TRADEMARKS**

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**Appearance:****MR JATIN Y TRIVEDI(2616) for the Petitioner(s) No. 1  
for the Respondent(s) No. 1,2**

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**CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI****Date : 17/10/2023****ORAL ORDER**

1. Heard Mr. Pratik K. Chaudhari, learned advocate for Mr. Jatin Y. Trivedi, learned advocate appearing for the petitioner.
2. By way of present petition, the petitioner herein is aggrieved by the impugned order passed by the respondent No.1 dated 19.07.2023 accepting the application filed by the respondent No.2 which is duly produced at Page 34 seeking registration of Trade Mark 'SACHAMOTI' (Class 30). The petitioner claims to be prior user and proprietor of the same Trade Mark i.e. 'SACHAMOTI' and registered in various classes as mentioned in IP dated 12.05.2023 which is duly produced at Annexure – J, Page 112.
3. Mr. Pratik K. Chaudhari, learned advocate appearing for the petitioner, submitted that the impugned order dated 19.07.2023

is a non-speaking order and while accepting the application of the respondent No.2, the said order is passed without considering the objections raised by the petitioner by virtue of interlocutory petition. Reliance was placed on Section 18(3) of the Trade Marks Act, 1999, which reads thus:

*“18(3) Every application under sub-section (1) shall be filed in the office of the Trade Marks Registry within whose territorial limits the principal place of business in India of the applicant or in the case of joint applicants the principal place of business in India of the applicant whose name is first mentioned in the application as having a place of business in India, is situate: Provided that where the applicant or any of the joint applicants does not carry on business in India, the application shall be filed in the office of the Trade Marks Registry within whose territorial limits the place mentioned in the address for service in India as disclosed in the application, is situate.”*

4. Placing reliance on the aforesaid, Mr. Chaudhari, learned advocate, submitted that the principal place of business of the respondent No.2 is in Tamil Nadu as stated in the cause title and two applications came to be filed by the respondent No.2 for the same reliefs, duly produced at page 81 and 82 respectively.

5. Considering the aforesaid, issue **Notice** making it returnable on **30.11.2023**.

6. In the meantime, ad-interim relief in terms of paragraphs 33(b) and 33(d) is granted. Direct service is permitted.

(VAIBHAVI D. NANAVATI,J)