

OIPD-3

ORDER SHEET

IPDCR/12/2022
IN THE HIGH COURT AT CALCUTTA
INTELLECTUAL PROPERTY RIGHTS DIVISION
ORIGINAL SIDE

RAJKUMAR AGGARWAL, PROPRIETOR OF M/S. PETRO PRODUCT
(TP/30/2020/CR/EZ)
VS.
NAND KISHORE BHIMSARIYA AND ANR.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 5th March, 2026.

Mr. Sayantan Basu, Sr. Adv., Mr. Tanmoy Roy,
Adv. for the petitioner.
Mr. Sunil Kr. Singhanian, Mr. Asit De, Advocates for respondent no.2.

The Court : Affidavit of service and supplementary affidavit filed on behalf of the petitioner are taken on record. The respondent no. 1 remains unrepresented.

In an application for rectification of the copyright granted to the respondent no.1, the petitioner's case is as follows :

The petitioner applied for registration of a copyright of the artistic work of the packaging in which his product was packed and sold in the market. The petitioner says that the first user of such packaging was in 1997 and the artistic work was registered under the Copyright Act, 1957 in the year 2002. The petitioner also claims to have a registered trade mark in respect of "Dulhan Kesh Kala" along with the said packaging. The registration of trade mark took place in the year 2008. Neither at the time of registration of the copyright or the trade mark any one, according to the petitioner, came forward to object to the same. It is the further case of the

petitioner that the respondent no.1 got the identical packaging with the similar artistic work registered in the year 2014.

On a query from Court it is submitted by the petitioner that no intimation as to the application made by the respondent no.1 was given to the petitioner though the petitioner was a person interested to object to such registration under the provisions of the Copyright Act, 1957 read with the Rules framed thereunder.

A registered copyright owner is an interested person if somebody applies to obtain registration of the same packaging with the artistic work. It was therefore obligatory on the part of the registering authority to intimate the petitioner prior to granting registration to the respondent no.1.

The respondent no.2 is the Registrar of Copyright. Learned Advocate on being asked as to whether any notice or intimation was served on the petitioner says that he needs time to take instructions.

The matter is adjourned till 23rd March, 2026 to enable the learned Advocate representing the respondent no.2 to take necessary instructions. On the next date the learned Advocate for the respondent no.2 shall inform the Court as to whether any intimation or notice was served on the petitioner prior to granting registration to the respondent no.1. If such intimation or notice was served, then the date, particulars and a copy of the notice should be placed before the Court. If no notice or intimation was served, the respondent no.2 shall explain why such notice and/or intimation was not served on the petitioner.

(ARINDAM MUKHERJEE, J.)