
(2015) 03 IPAB CK 0003

In the Intellectual Property Appellate Board

Case No : ORA/247/2009/TM/AMD

Ashok Gupta

APPELLANT

Vs

Saroj Sharma

RESPONDENT

Date of Decision : 12-03-2015

Acts Referred:

Citation : (2015) 03 IPAB CK 0003

Hon'ble Judges : K.N. Basha, J; Sanjeev Kumar Chaswal, Technical Member

Bench : Division Bench

Final Decision : Dismissed

Judgement

K.N. Basha, J

1 . The learned counsel for the applicant has sent a communication on 25.2.2015 to the Registry of the Intellectual Property Appellate Board, Chennai-18 stating that the applicant does not wish to continue with the present original rectification application, as per the undertaking given by the learned counsel for the respondent herein before the Delhi High Court on 22.08.2013. The learned counsel along with the above said communication also enclosed a copy of the Delhi High Court order passed in CS (OS) No. 2469 of 2009, which reads hereunder:

"Learned counsel for the defendant submits that the defendant is no longer in business for the last about two and half years. He submits that the defendant used the mark "Sakarni" only for about a year, and after the filing of the suit, the said mark has not even been used by the defendant. He further states on instructions from the defendant that the defendant undertakes to the court not to use the said mark in future as well, or any other mark which is deceptively similar to the plaintiffs mark "Sakarni".

Learned counsel for the defendant also states that the defendant shall take steps to get the registration of the offending trademark in favour of the defendant cancelled.

In view of the said undertaking given by the defendant through counsel, which shall bind the defendant and which is accepted by the court, learned counsel for the plaintiff, on instructions, submits that the plaintiff does not press for any other relief in the suit. The suit accordingly stands disposed on in terms of the undertaking given by the defendant."

2 . In view of the aforesaid factors, the present Original Rectification Application No. 247/2009/TM/AMD is hereby dismissed withdrawn as not pressed. No costs.