
(2022) 12 DEL CK 0209

In the Delhi High Court

Case No : C.O. (COMM.IPD-TM) No. 285 Of 2021, I.A. No. 21222 Of 2022

Hind Samachar Limited

APPELLANT

Vs

Punjab Kesari Publishers Pvt. Ltd. And Ors

RESPONDENT

Date of Decision : 14-12-2022

Acts Referred:

Trade Marks Act, 1999 — Section 47, 57

Citation : (2022) 12 DEL CK 0209

Hon'ble Judges : C.Hari Shankar, J

Bench : Single Bench

Advocate : Swapnil Gupta, Somnath

Final Decision : Disposed Of

Judgement

C. Hari Shankar, J

C.O. (COMM.IPD-TM) 285/2021 & I.A. 21222/2022

1. By this application, preferred under Sections 47 and 57 of the Trade Marks Act 1999, the plaintiff "The Hind Samachar Limited" has sought rectification of the registration of the Trade Marks maintained by the Registrar of Trademarks, by cancelling the registration granted by the Registry to Respondent 1 (the only contesting respondent) of the trade mark no. 3353424 dated 2nd September 2016 and to remove the said trade mark from the Registry of Trademarks.

2. This is a dispute amongst family members. During the pendency of the present petition, an oral Family Settlement was arrived at between the family members, which was reduced into writing, vide the Memorandum dated 16th July 2022, which has been placed on record along with IA 21222/2022.

3. Paras 9.1 and 9.2 of the said Family Settlement demarcated the territories in which the Petitioner (VKC group) and Respondent 1 (AKC group) could use the subject mark, and read thus:

"9.1. AKC Group Parties shall retain the exclusive right, title and ownership in

trade mark "PUNJAB KESARI" and/or "DAILY PUNJAB KESARI" along with exclusive publication and printing rights to the title 'PUNJAB KESARI' and/or "DAILY PUNJAB KESARI" in respect to their territories namely Delhi, Uttarakhand, Madhya Pradesh, Chattisgarh, Assam, Gujarat, Haryana (only in Bhiwani, Faridabad, Gurgaon, Mahindragarh and Rewari districts) and the districts of Uttar Pradesh mentioned hereinafter Saharanpur, Muzaffargarh, Meerut, Bijnor Ghaziabad, Moradabad, Pilibhit, Rampur, Bareilly, Bulandshahr, Badaun, Shahjahanpur, Kheri, Aligarh, Etah, Sitapur, Bahraich, Mathura, Agra, Mainpur, Farrukhabad, Hardoi & Lucknow. (as existing in the year 2000 and their subdivision since then). In other words the present day divisions of Uttar Pradesh as follows: Agra, Aligarh, Ayodhya, Bareilly, Lucknow, Meerut, Mirzapur, Moradabad & Saharanpur.

9.2 VKC Group Parties shall retain the exclusive right, title and trademark to "PUNJAB KESARI" and/or "DAILY PUNJAB KESARI" along with exclusive publication and printing rights to the title 'PUNJAB KESARI' and/or "DAILY PUNJAB KESARI" in respect of their territories of Punjab, Haryana (except Bhiwani, Mahindragarh, Gurgaon, Faridabad and Rewari districts), Himachal Pradesh, Jammu and Kashmir, Ladakh, Chandigarh, Bihar, Jharkhand, West Bengal, Maharashtra, Andhra Pradesh, Karnataka, Tamil Nadu, Orissa, Kerala, Nepal and the districts of Uttar Pradesh mentioned hereafter: Etawah, Kanpur rural, Kanpur Urban, Unnao, Barabanki, Gonda, Basti, Gorakhpur, Deoria, Faizabad, Azamgarh, Jaunpur, Ballia, Ghazipur, Sultanpur, Mirzapur, Varanasi, Allahabad, Pratapgarh, Rae Bareilly, Fatehpur, Banda, Hamirpur, Jalaun, Jhansi & Lalitpur (as existing in the year 2000 and their sub-division since then). In other words the present day divisions of Uttar Pradesh as follows: Deopatan, Basti, Gorakhpur, Kanpur, Azamgarh, Jhansi, Chitrakoot, Prayagraj & Varanasi"

4. IA 21222/2022, therefore, seeks that CO (COMM.IPD-TM) 285/2021 be disposed of in terms of the aforesaid Memorandum dated 16th July 2022, by directing rectification of the Register of Trade Marks in respect of Trademark No. 3353424 dated 2nd September 2016 by restricting the said trade mark in favour of Respondent 1 for the territories of Delhi, Uttarakhand, Madhya Pradesh, Chattisgarh, Assam, Gujarat, Haryana (only in Bhiwani, Faridabad, Gurgaon, Mahindragarh and Rewari districts) and in Uttar Pradesh mentioned hereinafter Saharanpur, Muzaffargarh, Meerut, Bijnor Ghaziabad, Moradabad, Pilibhit, Rampur, Bareilly, Bulandshahr, Badaun, Shahjahanpur, Kheri, Aligarh, Etah, Sitapur, Bahraich, Mathura, Agra, Mainpur, Farrukhabad, Hardoi & Lucknow districts (as existing in the year 2000 and their subdivision since then). And the present day divisions of Uttar Pradesh, which are, as follows: Agra, Aligarh, Ayodhya, Bareilly, Lucknow, Meerut, Mirzapur, Moradabad & Saharanpur and in respect of the petitioner for the territories of Punjab, Haryana (except Bhiwani, Mahindragarh, Gurgaon, Faridabad and Rewari districts), Himachal Pradesh, Jammu and Kashmir, Ladakh, Chandigarh, Bihar, Jharkhand, West Bengal, Maharashtra, Andhra Pradesh, Karnataka, Tamil Nadu, Orissa, Kerala, Nepal and the districts of Uttar Pradesh mentioned hereafter: Etawah, Kanpur rural,

Kanpur Urban, Unnao, Barabanki, Gonda, Basti, Gorakhpur, Deoria, Faizabad, Azamgarh, Jaunpur, Ballia, Ghazipur, Sultanpur, Mirzapur, Varanasi, Allahabad, Pratapgarh, Rae Bareilly, Fatehpur, Banda, Hamirpur, Jalaun, Jhansi & Lalitpur, Devipatan, Basti, Gorakhpur, Kanpur, Azamgarh, Jhansi, Chitrakoot, Prayagraj & Varanasi (as existing in the year 2000 and their sub-division since then).

5. Learned Counsel for the parties who are present before me are in agreement for disposal of the present petition in the aforesaid terms.

6. The dispute does not, therefore, survive for adjudication. The petition is disposed of by directing the rectification/amendment of the registration of the trade mark No. 3353424, dated 2nd September 2016, as it figures in the Registry of the Trade Mark, by restricting the use of the mark by Respondent 1 (AKC Group) and by the petitioner (VKC group) to the territories noted in para 4 supra.

7. Learned Counsel for the parties also agree ad idem that if there are any oppositions or objections pending in respect of the said marks, they would be withdrawn. If any formalities are required to be carried out for implementation of this order, the parties are permitted to do so.

8. This petition stands disposed of in the aforesaid terms.