



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L.) NO. 32894 OF 2023

Indi Pharma Pvt. Ltd. ...Petitioner  
Vs.  
The Registrar of Trade Marks & Anr. ...Respondents

Mr. Hiren Kamod with Mr. Kaivalya Shetye i/b. Mr. Mahesh Mahadgut for  
Petitioner.  
Mr. Ashish Mehta i/b. Ethos Legal Alliance for Respondents.

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CORAM: G. S. KULKARNI &  
FIRDOSH P. POONIWALLA, JJ.

DATE: 27 MARCH, 2024.

P.C.

1. We have heard learned counsel for the parties.
2. This petition under Article 226 of the Constitution of India is filed  
praying for the following reliefs:-

“(a) that this Hon’ble court be pleased to issue a Writ of Prohibition or in the nature of Prohibition or any other appropriate Writ, order or directing Prohibiting the Respondent No. 1 or his subordinate offices from removing the said trademark ‘VOMISET’ under No. 711095 from the records of the register of trademarks maintained by the Respondent No.

(b) that this Hon’ble court be pleased to issue Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction, directing the Respondent No. 1 to restore and renew the petitioner’s said trademark ‘VOMISET’ (word) under No. 711095 in Class

5. for a further period of 20 years with effect from 26-07-2006.

(c) pending the hearing and final disposal of the petition, the respondent No. 1 and its subordinate officers be restrained by an order and direction of this Hon'ble court from removing the petitioner's trademark "VOMISET" (word) under No. 711095 in Class 5 from the records of the register of trademarks maintained by the respondent No. 1;

(d) For ad-interim and interim relief in terms of prayer (c) above."

3. On the earlier occasion, Ms. More learned counsel for the respondent sought time to take instructions and more particularly on the petitioner's contention that the issue as raised in the petition in regard to the removal of the petitioner's trademark from the register would stand covered by the decision of this Court in **Motwane Private Ltd. Vs. The Registrar of Trade Marks and Another**<sup>1</sup>.

4. Today Mr. Mehta, learned counsel for the respondents, on instructions, submits that respondent no.1 shall restore the registered trademark of the petitioner so that further appropriate steps can be taken by the petitioner to move an application in the prescribed form and on payment of prescribed fees, to seek renewal of registration of the trademark in question.

5. Accordingly, let the petitioner's trademark be restored within a period of three weeks from today. After the trademark is restored, the petitioner is

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<sup>1</sup> Writ Petition (L.) No. 30537 of 2023 dated 16 February, 2024

permitted to make necessary application in the prescribed form and fees in accordance with the rules for renewal of the registration of its trademark. Such application if made, be considered by the respondents in accordance with law within four weeks of the said application. All contentions of the parties in that regard are expressly kept open.

6. Before parting, we may also observe that the parties are repeatedly required to approach this Court on the issues where the trademarks had remained to be renewed by them and in respect of which no notice was issued by the Registrar of Trademarks as per Section 25(3) of the Trade Marks Act, 1999. We may observe that the law is fairly settled, as also considering the recent decision of this Court in *Motwane Private Ltd.* (supra), we are of the opinion that if in similar cases as in *Motwane Private Ltd.* and that of the petitioner in the present proceedings, if parties make a representation/application to the Registrar of Trademarks for restoration/renewal of the registration of trademarks, the same needs to be decided by applying the decisions on the issue and the law as considered by this Court in *Motwane Private Ltd.* (supra). This would preclude such parties from resorting to unwarranted litigation against the Registrar of Trademarks by approaching this Court or resorting to any other legal proceedings. In our opinion, such applications if made are required to be accordingly decided by the Registrar of Trademarks as expeditiously as possible and within four weeks of such

application/s being made following the principles of law as discussed in *Motwane Private Ltd.* (supra) by taking a decision at the departmental level.

7. Disposed of in the above terms. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)