IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 3128 OF 2025
IN
COMMERCIAL IP SUIT NO. 102 OF 2015

Institute For Technology And Management Trust And Anr. ...Applicant

Versus

Putch Venkata Ramana & Ors ...Respondents

WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 27 OF 2022
WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 105 OF 2022
WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 104 OF 2022
WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 120 OF 2022
WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 117 OF 2022
WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 152 OF 2022
WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 59 OF 2022
WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 543 OF 2022
WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 875 OF 2022
WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 880 OF 2022
WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 890 OF 2022
WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 901 OF 2022

WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 909 OF 2022
WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 926 OF 2022
WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 927 OF 2022
WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 932 OF 2022
WITH
COMMERCIAL IP SUIT NO. 102 OF 2015
WITH
LEAVE PETITION NO. 211 OF 2015
WITH
LEAVE PETITION NO. 228 OF 2015
WITH
NOTICE OF MOTION (NMS) NO. 512 OF 2016
WITH
NOTICE OF MOTION (NMCD) NO. 33 OF 2015
IN
COMMERCIAL IP SUIT NO. 102 OF 2015
WITH
COMMERCIAL MISCELLANEOUS PETITION NO. 1296 OF 2022

Mr. Hiren Kamod *a/w Mr. Nishad Nadkarni, Mr. Aasif Navodia, Ms. Khushboo Jhunjhunwala, Ms. Jaanvi Chopra, Ms. Rakshita Singh i/b Khaitan and Co., for Petitioner.*

Mr. Aseem Naphade, *Counsel a/w Bharati Aindley, Shashank Sardesai, Anoushka Goyal, Aniket Bomble, for Applicant in IA/3128/2025.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE: JUNE 30, 2026

JUDGEMENT:

Context and Factual Background:

1. Interim Application No. 3128 of 2025 ("***Transfer Application***") in Commercial Suit No. 102 of 2015 ("***Suit***"), has been filed by the Original Plaintiff, Institute for Technology and Management Trust ("***ITM***"), a trust carrying out educational activities for which it uses certain marks ("***ITM Marks***"). Respondent No. 3, Samata Lok Sansthan Trust ("***Samata***"), also a trust based in Madhya Pradesh, carries on educational activities and is a defendant in the Suit, which relates to disputes over alleged abuse by Samata of property claimed by ITM in the ITM Marks.

2. The Suit was instituted by ITM and its trustees on September 14, 2015. ITM filed three rectification proceedings under Section 47 and Section 57 of the Trade Marks Act, 1999 ("***TM Act***") before the Registrar of Trade Marks, Mumbai ("***Registrar***") between May 27, 2014 and July 6, 2015 ("***ITM Rectification Proceedings***"), seeking cancellation and removal of certain registrations granted to Samata. On February 16, 2016, Samata filed 17 rectification applications under Section 47 and Section 57 of the TM Act before the Intellectual Property Appellate Board ("***IPAB***") against various registrations of the ITM Marks standing in the name of ITM ("***Samata Rectification Proceedings***").

3. Upon the IPAB being disbanded, the Samata Rectification Proceedings, in which pleadings are complete, have been transferred to this Court. By an order dated January 2, 2025, the Samata Rectification Proceedings were directed to be listed and heard along with the Suit.

4. The Transfer Application seeks transfer of the three ITM Rectification Proceedings pending before the Registrar to this Court for being clubbed and heard along with the Suit and the Samata Rectification Proceedings.

5. The Transfer Application has been filed as an Interim Application in the Suit. This is a central fact of the controversy since Samata would submit that such filing of the Transfer Application is misconceived and must fail, both for being misconceived and for want of jurisdiction in this Bench to hear it. Otherwise, there is no dispute about the parties being identical, the disputed property being rival registrations, the validity of registrations entailing overlapping issues and the fact that 18 proceedings are clubbed and listed on this Court's roster while the ITM Rectification Proceedings would need to be tried in parallel before the Registrar.

Contentions of Parties:

6. Against this backdrop, I have heard Mr. Aseem Naphade, Learned Advocate on behalf of ITM and Mr. Hiren Kamod, Learned Advocate on behalf

of Samata, and with their assistance examined the record and the law relied upon by each of them.

7. Mr. Aseem Naphade would submit that it would only be efficient, just and convenient to move the ITM Rectification Proceedings from the Registrar to this Court, to obviate the possibility of divergent parallel outcomes, when the disputes are between the same parties on the same subject matter across all proceedings in both forums. Mr. Naphade would submit that in any case this Court too has original jurisdiction under Section 47 and Section 57 to conduct the Rectification Proceedings.

8. Mr. Naphade would invoke a decision of the Delhi High Court in the case of ***Jumeirah***[1] with a near-similar factual context and decisions of the Madras High Court in the case of ***Nippon Paint***[2] to indicate that the transfers sought in the Transfer Application have clear precedents. Mr. Naphade would submit that while Section 24 of the Code of Civil Procedure, 1908 ("***CPC***") has been invoked in the Transfer Application, Section 151 of the CPC would also point to this Court having inherent powers to effect such transfer to meet the ends of justice and prevent chaotic consequences.

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1 Jumeira Beach Resort LLC v. Designarch Infrastructure Pvt Ltd – ***C.O. (COMM.IPD-TM) 124/2022 – Order dated 28.11.2022***

2 Nippon Paint Holdings Co. Ltd. v. Suraj Sharma – ***A. No. 556 OF 2024 IN C.S. (COMM.DIV) NO. 7 OF 2024 – Order dated 21.03.2024***

9. Mr. Hiren Kamod would submit that the approach adopted by ITM is foundationally flawed and that the Transfer Application could never have been filed as an Interim Application in the Suit. He would submit that ITM ought to have filed an application under Section 125 of the TM Act before the Registrar, to refer the ITM Rectification Proceedings to this Court. Even if the Registrar were to reject the application, a writ petition would lie to pursue the remedy, akin to the approach seen in a decision of a Learned Single Judge of the Madras High Court in ***Asia Match***[3].

10. Mr. Kamod would submit that the Transfer Application has been filed invoking Section 24 of the CPC, which is misconceived because the Registrar is not at all a "Court" for it to be regarded as a court subordinate to the High Court, within the meaning of that provision. The fact that the Registrar is not a Court is judicially well-recognised, in particular, by this Court in ***Anglo French***[4], which held that the Registrar as a tribunal with many trappings of a Court is not a Court. Relying on ***Anglo French***, a Learned Division Bench of the Delhi High Court in ***Promoshirt***[5], has held that the Registrar is not a Civil Court, in the context of adjudicating whether the Registrar is a Court for purposes of a second appeal under Section 100-A of the CPC.

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3 Asia Match Co. (P) Ltd. v. Registrar of Trade Marks & GI – 2023 SCC OnLine Mad 8549

4 Anglo French Drug Co. (Eastern) Private Ltd. v. R.D. Tinaikar – 1957 SCC OnLine Bom 165

5 Promoshirt SM SA v. Armassuisse – 2023 SCC OnLine Del 5531

11. Even as an application under Section 24 of the CPC, Mr. Kamod would point to provisions of this Court's Appellate Side Rules to submit the Transfer Application ought to have been filed as a Miscellaneous Application on the Appellate Side, which would lead to the jurisdiction over such an application falling within the roster of another Bench and outside the roster of this Bench. In the result, Mr. Kamod would submit, the Transfer Application having been filed on the Original Side is misconceived and pursues a track devoid of jurisdiction.

12. To counter Mr. Kamod's contention that Registrar could never be regarded as a "Court", Mr. Naphade would rely upon a ruling by the Supreme Court in ***Bhagwati Devi***[6] to indicate that the Supreme Court has treated the Motor Accident Claims Tribunal ("***MACT***") constituted under the Motor Vehicles Act, 1988 as a Civil Court for purposes of Section 25 of the CPC. The only difference between Section 24 and Section 25 of the CPC is that the former confers jurisdiction on the High Court to effect a transfer while the latter confers such jurisdiction on the Supreme Court. In ***Bhagwati Devi***, the Supreme Court entertained Transfer Petitions for moving proceedings pending before the MACT in Moradabad to the Tribunal under the same legislation in Delhi.

6 Bhagwati Devi v. I.S. Goel – 1982 SCC OnLine SC 8

Analysis and Findings:

13. At the threshold, it would be appropriate to extract Section 24(1) and Section 25(1) of the CPC, which read thus:

> *"24. General power of transfer and withdrawal.—*
>
> *(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desired to be heard, or of its own motion without such notice, the High Court or the District Court may at any stage—*
>
> *(a) transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same, or*
>
> *(b) withdraw any suit, appeal or other proceeding pending in any Court subordinate to it, and—*
>
> *(i) try or dispose of the same; or*
>
> *(ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or*
>
> *(iii) retransfer the same for trial or disposal to the Court from which it was withdrawn.*
>
> *25. Power of Supreme Court to transfer suits, etc.—*
>
> *(1) On the application of a party, and after notice to the parties, and after hearing such of them as desire to be heard, the Supreme Court may, at any stage, if satisfied that an order under this section is expedient for the ends of justice, direct that any suit, appeal or other proceeding be transferred from a High Court or other Civil Court in one State to a High Court or other Civil Court in any other State."*
>
> ***[Emphasis Supplied]***

14. A plain reading of Section 24(1) would indicate that on an Application filed before the High Court by any of the parties or even by the High Court on its own motion, even without notice, may at any stage withdraw any *proceedings* pending in any Court subordinate to it for trial and disposal by the High Court. This is a power conferred on the High Court to allow an Application for such transfer made by a party to the proceedings. The High Court on its own motion too may effect such a transfer. This is a wide and expansive power. Section 25 of the CPC empowers the Supreme Court to effect transfers among High Courts and other Civil Courts seated in one State to another.

Registrar's Status for Section 24 of CPC:

15. While the power under Section 24 of the CPC is wide and expansive, there has to be good reason to use it. The evident underlying principle is that of *forum conveniens* – the most convenient forum must be enabled to try the proceedings. In the facts of this case, 18 connected proceedings (the Samata Rectification Proceedings and the Suit) are now being conducted by this Court. The ITM Rectification Proceedings alone are before the Registrar. The parties are the same, the factual matrix for each set of proceedings is inextricably inter-connected and this Court would indeed be the most convenient forum that should conduct the proceedings. In fact, this facet is not even contested

by Samata. However, Samata's contentions are based on its understanding of the provisions involved, primarily Section 24 of the CPC, for which it would contend that the Registrar is not a "*Court subordinate to*" this Court, to enable the ITM Rectification Proceedings to be withdrawn to this Court for trial and disposal by this Court.

16. The assertion that the Registrar is not a "Court" may appear attractive at first blush, but for the reasons that follow, for purposes of Section 24 of the CPC read with the jurisdiction of this Court under Section 47 and Section 57 of the TM Act, it is not a tenable contention. The term "Court" is not defined in the CPC and it is well settled that to examine if a forum is a Court, one must have regard to its powers to authoritatively adjudicate a dispute and enforce a decision. Section 127 of the TM Act confers various powers of a civil court on the Registrar, and is extracted below:

> *"127. Powers of Registrar.—*
> *In all proceedings under this Act before the Registrar,—*
> *(a) the Registrar shall have all the powers of a civil court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, compelling the discovery and production of documents and issuing commissions for the examination of witnesses;*
>
> *(b) the Registrar may, subject to any rules made in this behalf under section 157, make such orders as to costs as he considers reasonable, and any such order shall be executable as a decree of a civil court:*
> *Provided that the Registrar shall have no power to award costs to or against any*

party on an appeal to him against a refusal of the proprietor of a certification trade mark to certify goods or provision of services or to authorise the use of the mark;

(c) the Registrar may, on an application made in the prescribed manner, review his own decision."

[Emphasis Supplied]

17. The trappings of a Court conferred on the Registrar under Section 127 of the TM Act include receipt of evidence, administration of oaths, enforcing attendance of witnesses, compelling discovery and production of documents issuing commissions for examining witnesses, imposing costs in orders that would constitute a decree of a civil court, and even reviewing its own decisions. Therefore, indeed, the Registrar has the trappings of a Court. Whether despite such trappings, the Registrar should not be treated as a Court for purposes of Section 24 of the CPC is the question to be answered, in particular, in view of the reliance placed on a 1957 decision of a Learned Single Judge of this Court in ***Anglo French*** and the endorsement of that ruling by a Learned Division Bench of the Delhi High Court in ***Promoshirt***.

18. Further, decisions of the Registrar are appealable before this Court under Section 91(1) of the TM Act, and the same is extracted below:

"91. Appeals to High Court.—

(1) Any person aggrieved by an order or decision of the Registrar under this Act, or the rules made thereunder may prefer an appeal to the High Court within three

months from the date on which the order or decision sought to be appealed against is communicated to such person preferring the appeal."

[Emphasis Supplied]

19. It will be seen that all decisions and orders of the Registrar are appealable to this Court. Therefore, *if* the Registrar is to be regarded as a Court, then it would be a *Court subordinate to* this Court for purposes of Section 24 of the CPC.

20. As already stated, since the term "Court" is not explicitly defined in CPC, the general legal meaning is to be considered – essentially, a forum which has jurisdiction to adjudicate controversies, declare and enforce rights, and exercise powers specifically conferred by law. Even if it had been a defined term, one must not forget that under Section 2 of the CPC, defined words and expressions are qualified by the phrase "*unless repugnant to the context or meaning thereof*", which means that a contextual deviation from the defined term is expected, should application of the definition lead to repugnant outcomes. In other words, if the meaning assigned to a word or expression results in an outcome in a context of its usage that cannot coexist with the necessary meaning to be given in a certain context, there would be a deviation from the meaning given in the definition.

21. It is well known that for purposes of applicability of the Limitation Act, 1963 ("***Limitation Act***") and the general power of condoning delay for suffi-

cient cause under Section 5 of that legislation, tribunals are not Courts. Mr. Kamod expectedly, relies on the decision in ***Khoday***[7], which notices the earlier view in ***Sakura***[8], that the Registrar is not a Court for purposes of applying the residuary three-year limitation period under Article 137 of the Limitation Act to rectification proceedings. However, the core principle underlying this position that the TM Act has its own framework for entertainment of rectification proceedings, due to which rather than deadlines of limitation under the Limitation Act, principles of delay, laches, acquiescence and waiver would fall for consideration – all of this was in the context of the deadline for filing Rectification Proceedings.

22. The Registrar as an adjudicatory forum is a creature of statute. The TM Act stipulates its own requirements of when the Registrar can be approached. Therefore, the law declared in ***Khoday*** and ***Sakura*** is in the context of limitation and it cannot be contended that individual sentences stating that the Registrar is not a Court can be held to be a declaration of a rule of universal application, regardless of the context in which the question would arise. I am unable to agree that the Registrar would be regarded as a forum that can never ever be regarded as a Court for any policy purpose whatsoever. On the contrary, to consider the context and legislative policy purpose, one must examine if the Registrar has been conferred a jurisdiction that gives it the trappings of a

7 Khoday Distilleries Ltd. v. Scotch Whisky Assn. – (2008) 10 SCC 723
8 Sakura v. Tanaji – 1985 (3) SCC 590

court for purposes of the legislation by which it is created (TM Act) and then consider the purposes for which the provision under consideration is to be applied (Section 24 of the CPC).

23. Legislation creating a tribunal may have given it exclusive jurisdiction, ousting the jurisdiction of civil courts. In some legislation, the powers of the tribunal could be of such nature that its findings would bind even the civil courts seized of related litigation. Having regard to a contextual reading of the tribunal's role, one must then examine whether for purposes of Section 24 of the CPC, treatment of a tribunal as a Court from which the High Court may transfer proceedings to itself is anathema to the legislative policy intent.

24. Seen through this prism, one cannot ignore the serious role envisaged for the Registrar under the TM Act. Under Sections 47 and 57 of the TM Act, the Registrar can make binding interventions, and in the course of conducting proceedings. pass orders as to costs that are treated as executable decrees of a civil court. The Registrar has the power, among others, to conduct review proceedings. I have already dealt with Section 127 of the TM Act above. One must remember that the jurisdiction of the Registrar to conduct rectification proceedings is concurrent with the jurisdiction of the High Court. The applicant gets to choose where he desires to file proceedings for rectification. He may file it with either the Registrar or with the High Court. The role played by

the Registrar under Section 47 and Section 57 of the TM Act is but the role that this Court would play under the very same sections.

25. Under Section 124 of the Act, where rectification proceedings are initiated before or after the filing of an infringement suit, in accordance with the due process set out therein, the suit before the District Court or the High Court would stand stayed as a matter of statute to allow the Registrar to conduct and complete the rectification proceedings. Once the Registrar adjudicates the rectification application, the findings therein would bind the Court.

26. When seen in that light, it would not at all be possible to simply dismiss as a matter of universally applicable principle of law, that the Registrar could never ever be regarded as a Court including for Section 24 of the CPC. Therefore, the trappings of a Court are only too visible. As a tribunal with serious trappings of a Court of the first instance, read with the High Court being the Appellate Court before which the statutory right to appeal from its decisions may be exercised, the Registrar, in my judgement can truly be regarded as a subordinate Court for purposes of Section 24 of the CPC.

27. The principle underlying Section 24 of CPC is that of *forum conveniens*, empowering the High Court to enable smooth, efficient and convenient justice delivery by transferring to itself, any proceedings lying before a subordinate forum.

28. ITM's contention that the Registrar not being a Court and thereby being out of the pale of Section 24 of the CPC has another drawback. Such a reading would be repugnant to the context and purpose of the provision. Holding that despite the appellate oversight over the Registrar, coupled with the concurrent jurisdiction in relation to rectification proceedings, and indeed the binding effect of the Registrar's adjudicated findings on even the High Court in the conduct of infringement suits, the Registrar cannot be regarded as a Court, would be erosive of the High Court's powers to club proceedings for efficient, convenient and smooth justice delivery under Section 24 of the CPC.

29. There is another element to the analysis of this issue. One can understand if the interpretation of the Registrar as a Court were in the context of conferring on the Registrar any powers that are otherwise vested in a Court and not vested in a tribunal that is necessarily a creature of statute. What is canvassed here is that this Court's vested power to enable efficient justice delivery before a convenient forum must be repelled because the Registrar should not be treated as a Court. This turns the logic underlying Section 24 of the CPC on its head. Quite contrary to the anomaly of treating a non-Court forum as a Court to enable it to exercise powers not expressly conferred, such a reading would create an anomaly whereby the High Court would be regarded as being denuded of its inherent power to transfer and consolidate deeply

inter-connected and inextricably inter-woven proceedings to itself, despite the provisions of Section 24 of the CPC read with Section 151 of the CPC.

30. One cannot forget that CPC stipulates procedural and adjectival law and must be construed in a manner that subserves the objective for which its provisions are made, read with the objectives of the substantive law in the context of which it is applied. To my mind, denuding the High Court of power to transfer and consolidate proceedings on the premise that Section 24 of the CPC would allow transfer of proceedings from a Court to the High Court but not from a tribunal to the High Court despite the tribunal having concurrent jurisdiction with the High Court and despite the High Court having appellate review powers over the tribunal, would inflict violence to the policy intent for which that provision is made.

31. Mr. Naphade is right in invoking Section 151 of the CPC to fill any perceived interstices that lead to a hyper-technical approach that throws hurdles on the path of smooth and efficient justice delivery. Section 151 of the CPC reads thus:

> *"151. Saving of inherent powers of Court.—*
>
> *Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court."*
>
> *[Emphasis Supplied]*

32. When this Court is seized of the Suit and the attendant Samata Rectification Proceedings (17 in number), it would only be just, fair, logical and reasonable to ensure that the ITM Rectification Proceedings (just three in number) lying with the Registrar too be heard by this Court. This is an order necessary for the ends of justice to be met. I need not go into whether the objections being raised by Samata constitute an abuse of the process of the Court. The arguments about due process are indeed important, particularly when one is interpreting wide and expansive powers, which have to be responsibly used.

33. Section 24 read with Section 151 of the CPC enables smoothening of justice delivery and makes it reasonable and logical to conduct adjudication without fragmented litigation across forums with the chaotic possibility of different outcomes across forums. It is also not necessary for Section 24 of the CPC to be used by the High Court only to transfer proceedings to itself. The High Court could do the converse. If found fit and most efficient for the rectification proceedings to be consolidated for conduct by the Registrar, it would be completely open to the High Court to even send the rectification proceedings pending before the High Court for adjudication by the Registrar.

34. What is the most rational and appropriate measure to be taken in exercise of the powers under Section 24 of the CPC is a matter of exercise of the High Court's discretion, based on the facts of the case and the situation on

hand, bearing in mind at all times that such discretion has to be exercised reasonably, rationally and in a just and fair manner.

35. In the instant case, considering the volume of work in the captioned proceedings that the High Court is already seized of, bringing the ITM Rectification Proceedings lying before the Registrar for being clubbed and heard by the High Court, as sought by the Applicant, is a fair and reasonable request that would serve the interests of a more efficient adjudication of the disputes between the parties. The powers to so club are referable to Section 24 of the CPC read with Section 151 of the CPC. Nothing in the CPC, including Section 24, can limit the inherent power of this Court to effect such a clubbing in the facts of this case.

Absence of High Court IPR Rules:

36. The absence of further procedural rules of the High Court to deal with intellectual property rights litigation is another issue raised by Mr. Kamod. Unlike the Delhi High Court's Intellectual Property Rights Rules ("***IPD Rules***"), this Court does not have a separate division dealing with such matters with special rules governing the same. Mr. Kamod would indicate that Rule 26 of the IPD Rules contains a specific provision for such transfer, but our Court does not have such rules. This contention too does not turn the needle in

Samata's favour. It is well settled that the absence of procedural rules cannot lead to the substantive power in a statute becoming incapable of use.

37. This is the position in law declared in numerous judgements. It would suffice to cite just the decision of the Supreme Court in ***Delhi Science Forum***[9]. The Supreme Court dealt with Section 4 of the Telegraph Act, 1885, which empowered the State to grant licenses for provision of telecommunications services and enabled subordinate legislation to be made for this purpose under Section 7 of that legislation. It was contended, identically in that case, that the absence of rules would lead to the power under Section 4 not being capable of being put to use. The following extracts from ***Delhi Science Forum*** are noteworthy:

> *"13. Section 7 enables the Central Government to make rules consistent with the provisions of the Act for the conduct of all or any telegraphs established, maintained or worked by the Government or by persons licensed under the said Act. Clause (e) of sub-section (2) of Section 7 prescribes that rules under the said section may provide for conditions and restrictions subject to which any telegraph line, appliance or apparatus for telegraphic communication shall be established, maintained, worked, repaired, transferred, shifted, withdrawn or disconnected. There is no dispute that no such rules have been framed as contemplated by Section 7(2)(e) of the Act. But in that event, it cannot be held that unless such rules are framed, the power under sub-section (1) of Section 4 cannot be exercised by the Central Government. The power has been granted to the Central Government by the Act itself, and the exercise of that right, by the Central Government, cannot be*

9 *Delhi Science Forum v. Union of India – (1996) 2 SCC 405*

circumscribed, limited or restricted (sic by) any subordinate legislation to be framed under Section 7 of the Act. ***No doubt, it was advisable on the part of the Central Government to frame such rules when it was so desired by Parliament.*** *Clause (e) to sub-section (2) of Section 7 was introduced by Amending Act 47 of 1957. If the conditions and restrictions subject to which any telegraph/telephone line, is to be established, maintained or worked, had been prescribed by the rules, there would have been less chances of abuse or arbitrary exercise of the said power. That is why by the Amending Act 47 of 1957 Parliament required the rules to be framed.* ***But the question is as to whether it can be held that till such rules are framed Central Government cannot exercise the power which has been specifically vested in it by first proviso to Section 4(1) of the Act? Even in the absence of rules the power to grant licence on such conditions and for such considerations can be exercised by the Central Government but then such power should be exercised on well-settled principles and norms which can satisfy the test of Article 14 of the Constitution.*** *If necessary for the purpose of satisfying as to whether the grant of the licence has been made strictly in terms of the proviso complying and fulfilling the conditions prescribed, which can be held not only reasonable, rational, but also in the public interest can be examined by courts.* ***It need not be impressed that an authority which has been empowered to attach such conditions, as it thinks fit, must have regard to the relevant considerations and has to disregard the irrelevant ones. The authority has to genuinely examine the applications on their individual merit and not to promote a purpose alien to the spirit of the Act.*** *……."*

[Emphasis Supplied]

38. Since Rule 26 of the IPD Rules is cited, it should also be mentioned that Rule 26 inherently indicates that the source of power of that Rule is but Section 24 of the CPC. Much akin to Section 24, Rule 26 of the IPD Rules too

makes a reference to transferring proceedings from a *Commercial Court* to itself. Rule 26 is extracted below:

> *"26. Consolidation of IPR subject matters or cases or proceedings or disputes*
>
> ***Where there are multiple proceedings relating to the same or related IPR subject matter**, **irrespective of whether** the said proceedings are between the same parties or not, **the Court shall have the power and the discretion**, wherever appropriate, **to direct consolidation of proceedings**, hearings, and also to direct consolidated recording of evidence/common trial and consolidated adjudication. **If the Court is of the opinion that any matter pending before a Commercial Court is to be consolidated** with a matter pending before the IPD, **it may exercise powers of transfer under Section 24, Code of Civil Procedure, 1908** for transfer and **consolidation of such matter to itself**."*
>
> ***[Emphasis Supplied]***

39. A plain reading of Rule 26 would indicate that it provides for a power to club proceedings in the opening sentence and goes on to stipulate that the consolidation of proceedings would be in exercise of powers under Section 24 of CPC. In fact, in ***Jumeirah***, the Learned Single Judge of the Delhi High Court was presented with a contention that Rule 26 of the IPD Rules was an impediment to the transfer and consolidation, since Rule 26 spoke of transferring proceedings from a Commercial Court, and not from a tribunal like the Registrar. This contention was repelled.

40. Indeed, in ***Jumeirah***, a Learned Single Judge also noticed a contention that the first sentence of Rule 26 refers to intellectual property rights "proceedings" (without reference to a forum) while only the second sentence referred to a Commercial Court. While the Learned Single Judge *prima facie* agreed with that contention, to my mind, it is not even necessary to put too fine a point on the matter.

41. To my mind, two facets stand out. *First*, the power to so consolidate is obviously referable to Section 24 of the CPC as indicated in the second sentence. *Second*, if one were to assume that Section 24 of the CPC did not cover the first sentence, the only source of power to which the first sentence of Rule 26 would be referable ought to be the inherent power of the High Court and the clarification found in Section 151 of the CPC. If such power inheres in a High Court, the absence of a rule iterating that position, would not erode or take away the inherent power to so consolidate proceedings.

42. Therefore, as declared in ***Delhi Science Forum***, whether or not a High Court has framed rules akin to the IPD Rules would make no difference to this Court's exercise of inherent power and indeed, in my reading, to the powers available under Section 24 of the CPC.

43. To my mind, in the absence of any rules of this High Court akin to Rule 26 of the IPD Rules, the portion of the analysis in ***Jumeirah*** about the per-

ceived difference between the first sentence and the second sentence would become irrelevant for the Transfer Application. Rule 26 was presented to the Delhi High Court as an impediment, and that was rejected. The absence of such a rule constitutes the absence of such a perceived impediment. Nevertheless, the issue of the Registrar not being a Court was also squarely tabled before the Delhi High Court and was firmly dealt with, by a purposive reading of Section 24 of CPC.

44. The Delhi High Court also read into Section 125(2) of the TM Act, whereby the Registrar had statutory power to move rectification proceedings filed before it, to the High Court. ***Jumeirah*** rightly analysed that provision as a pointer to how the High Court could not be said to have no power to do the converse in the teeth of Section 24 of the CPC. I agree with the approach in ***Jumeirah***. Where the Registrar has the statutory power to refer matters before it to the High Court for adjudication, it cannot be said that the High Court could not pull matters from the Registrar to itself should circumstances so warrant, in exercise of powers under Section 24 of the CPC read with Section 151 of the CPC.

Promoshirt and Anglo French:

45. I am unable to concur with the view that the ruling of the Learned Division Bench of the Delhi High Court in ***Promoshirt*** results in a declaration of

law of universal application that the Registrar could never be regarded as a Court regardless of the context in which such proposition is pressed. The ruling in ***Promoshirt*** was in the context of whether for purposes of a second appeal, the proceedings before the Registrar would be regarded as proceedings before a Court. Any ratio discernible from ***Promoshirt*** declares the law specific to the issue that arose and was decided in that judgement. It is not a ratio in the nature of a declaration of a universal principle – a facet that I have already discussed above. Therefore, the decision in ***Promoshirt*** is clearly distinguishable in application to the facts of this case.

46. The reliance in ***Promoshirt*** by the Learned Division Bench of the Delhi High Court on this Court's decision in ***Anglo French***, too does not appeal to me since it is clearly distinguishable. In ***Anglo French***, lawyers who were desirous of having an exclusive right of audience before the Registrar on the premise that the Registrar was a Court subordinate to the High Court were pitted against trademark agents authorised by their clients to handle their work. The lawyers contended that only pleaders who qualify to plead under the Bombay Pleaders Act, 1920 ("***Pleaders Act***") should be permitted to appear before the Registrar because the Registrar is a Court. By a detailed analysis of the legislative policy intent underlying the Trade Marks Act, 1940 ("***1940 Act***") read with the legislative policy intent underlying the Pleaders Act, this Court had held that the Registrar was not a "Court" to attract the restrictions under the

Pleaders Act to deny the authorised trademark agents a right of audience. It was held that while the Registrar has trappings of a Court, an authorised agent who was declared eligible under the 1940 Act to appear before the Registrar, would not become ineligible to have audience before the Registrar on the ground that he is not a "pleader" under the Pleaders Act and that the Registrar has the trappings of a Court.

47. The provisions of both legislation (the 1940 Act and the Pleaders Act) were analysed to hold what the underlying policy intent was, to declare that the 1940 Act was wide enough to allow an authorised agent who is not a pleader, to appear before the Registrar. To my mind, ***Anglo French*** is an iteration of the principle that when one adjudicates whether a forum is a Court, one must necessarily have regard to the underlying legislative policy intent, in the context of the situation in which the question would have to be answered. What is true for a declaration in the context of the Pleaders Act need not be true in the context of consolidating rectification proceedings. What is true in the context of deciding whether a forum is a Court for purposes of a second appeal too need not be true for whether rectification proceedings conducted in a concurrent jurisdiction should be clubbed.

48. Yet another contention by Mr. Kamod is that a Learned Division Bench of this Court in ***Vishal Solanke***[10], while disagreeing with the Learned Division

10 Vishal Prafulsingh Solanke v. Controller of Patent and Designs – 2026:BHC-OS:7027-DB

Bench of the Delhi High Court in ***Promoshirt***, compared the powers of the Controller of Patents with the powers of the Registrar to hold that the powers of the Controller of Patents were much more significant than those of the Registrar. In my view, this contention does not take Samata's case to any better footing. The Learned Division Bench has expressly disagreed with ***Promoshirt*** and that is binding on me as a Single Judge Bench. The distinction perceived by way of stronger relative significance of the Controller of Patents only bolsters ***Vishal Solanke's*** disagreement with ***Promoshirt*** to a higher pitch. It does not translate into downplaying the role of the Registrar as a Court.

49. Smooth and efficient justice delivery is the legislative policy underlying Section 24 of the CPC, and when applied in the context of consolidating proceedings being conducted in parallel in the concurrent rectification jurisdiction, an inexorable conclusion would be that the Registrar being subordinate to the High Court owing to the statutory appeal provisions of Section 91, the Registrar would indeed be a Court with due regard to being clothed with all the trappings of a court.

Darshana Devi; Bhagwati Devi; and Nahar:

50. I must touch upon ***Bhagwati Devi***, relied upon by ITM. Exercising powers under Section 25 of the CPC, and allowing a Transfer Petition to move matters from one MACT to another MACT, the Supreme Court held as follows:

> *"1. In view of the observations of this Court in State of Haryana v. Darshana Devi, we are of the view that the Motor Accidents Claims Tribunal constituted under the Motor Vehicles Act is a civil Court for the purposes of section 25 of the Code of Civil Procedure……"*
>
> *[Emphasis Supplied]*

51. This ought to have put a firm end to any doubt in the matter. If the MACT, which is not a conventional Court, has been declared to be a Court by the Supreme Court for purposes of Section 25 of the CPC (extracted and dealt with above), it begs the question as to how one could contend that as a matter of universal application, tribunals cannot be regarded as Courts for purposes of Section 24 of the CPC.

52. ***Bhagwati Devi*** in turn invokes the law declared in ***Darshana Devi***, in which the Supreme Court had declared that the view of the Punjab and Haryana High Court extending the exemptions available to indigent persons under Order XXXIII of the CPC in relation to Court fees, to the fees payable to the MACT.

53. This is yet another pointer that when considering if a forum is a Court, regard must necessarily be had to the underlying policy objective in the context of which the issue is raised. The policy objective of Order XXXIII of CPC

is to give relief to indigent persons seeking access to justice and that informed the view on whether the MACT is a Court.

54. Before parting with this issue, I must mention that ***Promoshirt*** relied on another decision of the Supreme Court in ***Nahar***[11] which neither side highlighted in these proceedings. In ***Nahar***, the Supreme Court held that the Debt Recovery Tribunal ("***DRT***") had the trappings of a Court, but was not a Court for purposes of Section 24 of the CPC. ***Nahar*** noticed ***Bhagwati*** and differentiated between the MACT and DRT by pointing out that appeals from the MACT lie in the High Court bringing it within the High Court's hierarchy, which could have weighed in ***Bhagwati Devi***, while no appeals from the DRT could be pursued before the High Court, for the DRT to be regarded as a Court subordinate to the High Court. This is indeed the differentiator – because, in sharp contrast, under Section 91 of the TM Act, every single decision and order of the Registrar is appealable before the High Court. Therefore, even going by the inherent reasoning in ***Nahar***, the ratio therein is clearly distinguishable and inapplicable to the Registrar, which ends up being a Court subordinate to the High Court.

55. ***Nahar*** is yet another pointer that in deciding whether a forum is a Court for purposes of Section 24 of the CPC, regard must be had to the scheme of the

11 Nahar Industrial Enterprises Ltd v. Hongkong & Shanghai Banking Corp – (2009) 8 SCC 646

legislation by which the tribunal in question has been created and to then applying Section 24 of the CPC, rather than universally applying a principle that a tribunal would never be a Court or for that matter, that a tribunal would always be a Court. The Registrar, in my judgement, for the reasons articulated above, is a Court subordinate to this Court.

Miscellaneous Petitions under Appellate Side Rules:

56. This brings me to the other procedural objections raised on behalf of Samata. The contention is that the Transfer Application could not have been filed as an Interim Application in the Suit, and since Section 24 of the CPC is being invoked, it ought to have been filed as a Miscellaneous Application on the Appellate Side of this Court, which would then fall outside the jurisdiction of this Bench.

57. This is an important issue. Since applications under Section 24 of the CPC are squarely envisaged to be covered by the Appellate Side Rules, the contention has merit and warrants consideration. Had this been an application in respect of clubbing or transfer of any proceedings before a Court over which this Court has supervisory (as opposed to only appellate) jurisdiction under Article 227 of the Constitution of India, this contention could never be quarrelled with. This too is not the only distinction. Even in the absence of a supervisory jurisdiction under Article 227, simply put, any application under

Section 24 of the CPC would ordinarily and generally lie only on the Appellate Side of this Court and would then have the nomenclature of a Miscellaneous Application.

58. However, it is well settled that any special provisions on a subject would prevail of general provisions on that subject. The Rules governing the Original Side of this Court contain Chapter XLV titled "*RULE UNDER THE TRADE AND MERCHANDISE MARKS ACT, 1958 (ACT No. 43 OF 1958)*". This Chapter deals with all trademark matters filed in this Court, and under Rule 825, all applications under this branch of law would fall within this Chapter, housed by the Court, in its wisdom in the Original Side Rules. Indeed, the legislation referred to in the title of this Chapter was repealed and re-enacted as the TM Act. Under Section 8 of the General Clauses Act, 1897, all references to a legislation in other legislation, would automatically get construed as references to the repealing and re-enacted legislation i.e. in this case to the TM Act.

59. Therefore, in my view, all applications under the TM Act are governed by Chapter XLV of the Original Side Rules, which is the body of rules specially governing matters under and relating to the TM Act. Rule 830 in this Chapter deals with references of rectification proceedings made by the Registrar to the High Court, and therefore references made under Section 125(2) of the TM Act

would fall within the Original Side. Rule 835 in Chapter XLV provides as follows:

> *"835. Code of Civil Procedure and High Court Original side Rules to apply –*
>
> *In cases not provided for in the rules contained in this chapter, the provisions of the Code of Civil Procedure, 1908, and the rules of the Court in suits and matters on the Original Side of the Court shall, with any necessary modifications, apply to all proceedings under the Act. In case of inconsistency between the provision of the Code of Civil Procedure and the rules of the Court referred to herein, the said rules of the Court shall prevail."*
>
> ***[Emphasis Supplied]***

60. Therefore, cases such as this Transfer Application, would necessarily fall within the Original Side as per current Rules of this Court. Under Rule 835 extracted above, cases not specifically provided for in Chapter XLV would be governed by the provisions of CPC and the rules of this Court applicable to suits and matters on the Original Side, with necessary modifications and such provisions and rules will apply to all proceedings under the TM Act. Therefore, although Section 24 of the CPC has been invoked in the Transfer Application and which I have already held to be the source of power for considering the Transfer Application, there is also the inherent power available for efficient conduct of the Suit in exercise of powers clarified under Section 151 of the CPC. The Transfer Application relating to the TM Act, no fault can be found with the Transfer Application having been filed as an

Interim Application in the Suit on the Original Side – such filing is compliant with Rule 835 in Chapter XLV of the Original Side Rules

Section 125(2) of TM Act and other Objections:

61. The other contention that an application ought to have been made under Section 125(2) of the TM Act, and in the event of rejection of the request, a writ petition ought to have been filed, also does not appeal to me. If the law permits multiple legitimate means to secure a certain outcome, the intended beneficiary may adopt whichever approach he elects to pursue. In the absence of any ouster of one or the other means to reach the same end, it is for the intended beneficiary of the law to choose the method that most appeals to him.

62. It is most logical to have filed the Transfer Application in the proceedings that have already clubbed the Suit and the Samata Rectification Proceedings. The question is not what approach could have been adopted or ought to have been adopted by ITM in Samata's assessment, but whether the approach actually adopted by ITM is legitimate and worthy of consideration and acceptance. Therefore, this contention too is devoid of merit and does not appeal to me. On the contrary, it appears to be a contention to throw more hurdles in the path of smooth conduct of the proceedings, and all the more reason why

the provisions of Section 151 of the CPC can be pressed into service to repel this contention.

Summary of Conclusions:

63. Therefore, to summarise:

A] The Transfer Application filed as an Interim Application in the Suit, which is being conducted along with the Samata Rectification Applications is not misconceived. Matters under the TM Act are specifically covered by the Rules of this Court governing conduct of proceedings on the Original Side. The Transfer Application has been legitimately and in a compliant manner, filed as an Interim Application in the Suit;

B] For purposes of Section 24 of the CPC, the Registrar having trappings of a Court; wielding a jurisdiction entirely concurrent with this Court under Sections 47 and 57 of the TM Act; and the High Court being the statutory Appellate Court under Section 91 of the TM Act, can indeed be regarded as a Court subordinate to this Court;

C] The powers to effect a transfer and consolidation of rectification proceedings are referable not just to Section 24 of the CPC but also to Section 151 of the CPC;

D] In the facts of this case, it would only be appropriate to exercise the powers under the aforesaid provisions to transfer the ITM

Rectification Proceedings pending with the Registrar to this Court to be clubbed and adjudicated along with the already-clubbed Suit and the Samata Rectification Proceedings; and

E] ***Promoshirt*** is distinguishable by context and the scheme of the legislation in the context of which it was decided and does not declare a law of universal application that would lead to the Registrar being incapable of being regarded as a Court. ***Anglo French***, on which ***Promoshirt*** relies, is distinguishable because it dealt with the right of agents who are not "pleaders" to have an audience before the Registrar and the policy objective underlying the Pleaders Act is the basis of that outcome in that context. ***Nahar***, on which ***Promoshirt*** relies, itself differentiated between the MACT and DRT on the point of a statutory appeal to the High Court being envisaged for MACT and not for the DRT, in order not to follow ***Bhagwati Devi***. Since statutory appeals from the Registrar lie before the High Court much akin to the MACT, ***Nahar*** provides for an inherent differentiator for the Registrar to be a Court subordinate to this Court.

64. In the result, for all the aforesaid reasons, the Transfer Application deserves to be ***allowed***. It would be in the interests of justice and efficient conduct of inter-related proceedings to club the ITM Rectification Proceedings

with the already-clubbed Suit and Samata Rectification Proceedings in one composite consolidated forum.

65. The Registrar is directed to transmit to the Registry of this Court the complete records of the three ITM Rectifications Applications within a period of six weeks from the date of upload of this order.

66. Once the files are received, the Registry shall convert them into Commercial Miscellaneous Petitions and tag them with the Suit and the 17 Samata Rectification Applications. All the aforesaid tagged proceedings are stood over to ***August 18, 2026***.

67. The Transfer Application is ***finally disposed of*** in the aforesaid terms.

68. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]