



2026:DHC:782



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment delivered on: 31.01.2026*

+ **C.O. (COMM.IPD-TM) 39/2024 & I.A. 5792/2024**

**SUNFLAME ENTERPRISES P. LTD.** .....Petitioner

versus

**SUMIT KISHAN SHARMA & ANR.** .... Respondents

**Advocates who appeared in this case**

For the Petitioner : Mr. Sachin Gupta, Mr. Rohit Pradhan, Mr. Prashansa Singh, Mr. Adarsh, Mr. Ajay, Ms. Archana and Ms. Mahima Chanchalani, Advocates.

For the Respondents : Mr. Mohit Goel, Mr. Karan Kamra, Mr. Abhishek Kotnala and Mr. Kartikeya Tandon, Advocates for R-1.  
Ms. Radhika Bishwajit Dubey, CGSC with Mr. Saksham Sharma, Advocate for R-2

**CORAM:**  
**HON'BLE MR. JUSTICE TEJAS KARIA**

**JUDGMENT**

**TEJAS KARIA, J**

1. The present Rectification Petition has been filed under Section 57 of the Trade Marks Act, 1999 (“Act”) seeking rectification of the Register of Trade Marks by cancellation / removal of the Trade Mark, ‘SUNFLARE/



’, (“Impugned Mark”) registered under Trade Mark



Application No. 3455874 in Class 11 in favour of Respondent No. 1.


2. The Notice in the present Petition was issued *vide* Order dated 13.03.2024 and the Respondents were given a time of four weeks to file their respective replies to the present Petition. The learned Counsel for the Parties made submissions and the judgment was reserved on 15.10.2025.

**SUBMISSIONS ON BEHALF OF THE PETITIONER:**

3. The learned Counsel for the Petitioner made the following submissions:

3.1 In the year 1980, the Petitioner through its predecessor, a partnership firm under the name and style of M/s. Sunflame Industries, started the business of manufacturing and marketing of gas stoves under the Trade









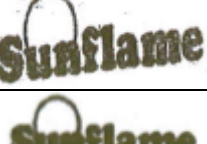

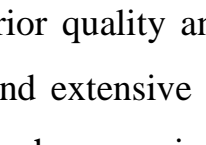
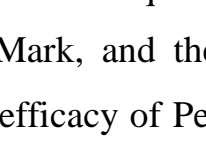
Mark, 'SUNFLAME / ' (**"Petitioner's Mark"**). The Petitioner, however, was incorporated in the year 1984 under the name Sunflame Appliances Marketing Pvt. Ltd. whose name changed to its present name, i.e., Sunflame Enterprises Pvt. Ltd. in the year 1995. The Petitioner has grown since and is one of the leading companies engaged in the business of manufacturing, marketing, sale and distribution of a wide range of home and kitchen appliances, *inter alia*, gas stoves, gas burners, baffle chimneys, cook tops, mixer, grinders, water heaters, cooking range, small appliance, induction, over toaster, pressure cookers, cookware, room heaters, water heaters and other appliances (**"Petitioner's Products"**) and have been using the Petitioner's Mark, continuously since the year 1980.



3.2 The Petitioner for more than four decades is renowned for high-quality, high-performance kitchen and home appliances and delivering the best customer experience and value. The Petitioner has always met and exceeded customer experience and assured consistent quality and dependability with leading-edge and technical superiority and innovation as cornerstone of its corporate philosophy. Always exploring the possibility of new designs, technologies, features, and innovations with great emphasis on research and development, the Petitioner has established its leadership in creating better and quality products for its customers. Further, its vast network of dealers and service centers across the country ensures unfailing service and support for ultimate customer satisfaction. The Petitioner's Mark has acquired distinctiveness and enviable goodwill and reputation due to its extensive, long and continuous use since the year 1980. The Petitioner has applied for and received various registrations for the Petitioner's Mark, the details of which are as under:

S. No.	Trade Mark	Registration No. and date	Use claimed	Class
1.		366907 30.09.1980	Proposed to be used	Class 11
2.		448264 15.01.1986	Proposed to be used	Class 11
3.		1257845 29.12.2003	01.08.2000	Class 11
4.		2211545 27.09.2011	01.10.2010	Class 11



5.		2627694 14.11.2013	01.01.2006	Class 11
6.		2717099 11.04.2014	Proposed to be used	Class 11
7.		3255574 09.05.2016	01.06.2004	Class 11
8.		2211546 27.09.2011	01.09.2004	Class 21
9.		2627696 14.11.2013	01.01.2006	Class 21
10.		572529 04.05.1992	01.02.1998	Class 9
11.		448261 15.01.1986	Proposed to be used	Class 9
12.		448262 13.01.1986	Proposed to be used	Class 7
13.		2627695 14.11.2013	01.01.2005	Class 7
14.		3560694 31.05.2017	Proposed to be used	Class 17

3.3 Due to superior quality and high efficacy of the Petitioner's Products, continuous and extensive use of the Petitioner's Mark and large sales, the Petitioner has acquired immense reputation and goodwill in the Petitioner's Mark, and the Petitioner's Products sold thereunder. The result of the efficacy of Petitioner's Products sold under the Petitioner's Mark is reflected in its sales turnover which is growing steadily every



year. The sales turnover and the promotional expenditure of the Petitioner's Products under the Petitioner's Mark since the Financial Year ("FY") 2013-14 until FY 2022-23 is as under:




Financial Year	Sales (Rs. In Lakhs)	Promotional Expenditure (Rs. In Lakhs)
2013-14	24,276.37	1,246.23
2014-15	25,726.20	1,029.84
2015-16	24,778.80	956.35
2016-17	26,521.03	1,231.08
2017-18	24,552.15	1,342.12
2018-19	26,172.88	1,459.44
2019-20	26,299.75	1,602.49
2020-21	26,407.48	722.40
2021-22	34,978.54	1,141.71
2022-23	30,000.36	1,359.15

3.4 The Petitioner came across the Application No. 3455874 for registration of the Impugned Mark and, thereafter, the Petitioner addressed a legal notice dated 24.08.2023 ("**Legal Notice**") to Respondent No. 1, wherein the Petitioner reiterated its rights under the Petitioner's Mark and its use since 1980 and directing Respondent No. 1 to cease and desist the use of the Impugned Mark. The Petitioner received a reply to the Legal Notice dated 03.10.2023 from Kitchenopedia Appliances Private Limited, who claimed its rights in the Impugned Mark and refused to comply with the Legal Notice.



3.5 Respondent No. 1 has filed Trade Mark Application Nos. 5460915 and 5460916, both dated 24.05.2022, for registration of the Impugned Mark in Classes 21 and 9 respectively, however, the same have been duly opposed by the Petitioner. Respondent No. 1 is engaged in the

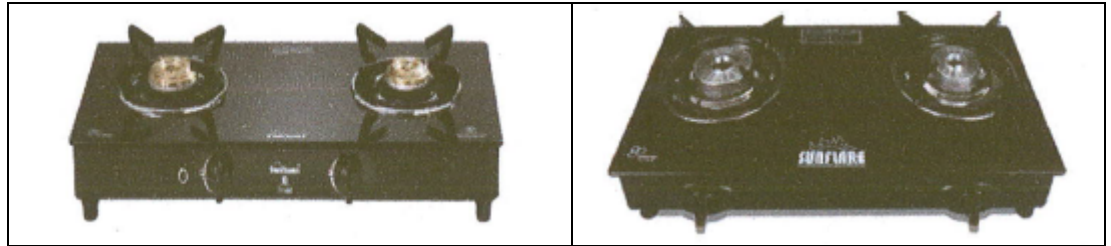


manufacturing / marketing and sale of gas stoves, under Class 11 (“**Infringing Product**”). The Petitioner has not come across any goods, under Classes 21 and 9, using the Impugned Mark. The details of the said Trade Mark Applications filed by Respondent No. 1 are as under:

Trade Mark	Registration / Application No. and date	Use claimed	Class & Goods	Status
	3455874 dated 11.01.2017	Proposed to be used	Class 11: Gas stoves, induction, chimney, hobs	Registered
	5460915 dated 24.05.2022	27.10.2018	Class 21: Household kitchen utensils, etc.	Opposed
	5460916 dated 24.05.2022	27.10.2018	Class 9: TV Sets, Mobile accessories, Life saving apparatus, etc.	Opposed

3.6 Respondent No. 1 has blatantly adopted the Petitioner’s Mark with mere replacement of ‘M’ with ‘R’ in suffix of the Impugned Mark. The Impugned Mark is an illegal adoption and infringement of the Petitioner’s Mark. The images of the Petitioner’s gas stove and the Infringing Product is as under:

Petitioner’s Mark & the Petitioner’s Product	Impugned Mark & the Infringing Product
	



3.7 Respondent No. 1 has unethically and unlawfully adopted the Impugned Mark. Being in the similar business, Respondent No. 1 is well aware of the Petitioner's Mark. Having seen the success of the Petitioner's Products under the Petitioner's Mark, Respondent No. 1 adopted the Impugned Mark, which is confusingly and deceptively similar, and almost identical, to the Petitioner's Mark. Such ingenious adoption and coinage cannot be a mere coincidence. The adoption of the Impugned Mark further shows slavish imitation of the Petitioner's Mark to confuse the public at large. There exists a likelihood of confusion on the part of the public, which includes the likelihood of association of the Impugned Mark with the Petitioner's Mark.


3.8 It has been held by this Court in *South India Beverages v. General Mills*, 2014 SCC OnLine Del 1953, that Courts should not engage in 'technical gymnastics' to find minor differences in conflicting marks. Further, in *Marico Ltd. Vs. Mr. Mukesh Kumar & Ors.*; 2018 SCC OnLine Del 13412, it has been held by this Court that most successful form of copying is to employ enough points of similarity to confuse the public with enough points of difference to confuse the Courts. Infringement occurs even without side-by-side comparison if a consumer of average intelligence, upon later seeing the defendant's mark, is likely to wonder about its association with the plaintiff's. Imitation of the central idea or commercial impression of a mark, not just its visual or






phonetic details, can also amount to idea infringement as has been held by this Court in *KRBL Ltd. v. Praveen Kumar Buyyani & Ors.*, 2025 SCC OnLine Del 198.

3.9 With respect to the contention of Respondent No. 1 that the Petitioner has taken contrary stands in the reply to the examination report of Trade

Mark Application No. 2717099 for the Petitioner's Mark ', (**"Reply to the Examination Report"**), it is without doubt that not only

the mark which was cited, ', (**"Cited Mark"**) did not belong to Respondent No. 1, but also, the Cited Mark has already lapsed and, therefore, not relevant to the present case. It is settled law that cyclostyled responses to examination report, cannot be the basis for deciding valuable legal rights as has been held in *Anil Verma v. R.K. Jewellers*, 2019 SCC OnLine Del 8252. Further, this Court in *Under Armour v. Aditya Birla Fashion & Retail Ltd.*, 2023 SCC OnLine Del 2269, held that reply to the examination report will be relevant only where the examination report cites respondent / defendants' impugned mark.

#### **SUBMISSIONS ON BEHALF OF RESPONDENT NO. 1:**

4. The learned Counsel for Respondent No. 1 made the following submissions:

4.1 The Petitioner has sought to restrain Respondent No. 1's use of the Impugned Mark, which is a Device Mark, on the basis of its registration for the Petitioner's Mark, which is also registered as a Device Mark. Accordingly, for any determination on similarity, the Petitioner's Mark





would have to be compared as a whole with the Impugned Mark in order to ascertain the deceptive similarity between the competing Marks.

4.2 Respondent No. 1 is a *bona fide* adopter of the Impugned Mark, which has been openly and continuously used since 2017 for the business of manufacturing and sale of a wide range of kitchen appliances. The Impugned Mark is registered in Class 11 bearing Trade Mark Registration No. 3455874. The earliest invoice under the Impugned Mark dates back to 04.08.2017. The revenue of Respondent No. 1 is more than ₹6,70,00,000/- since 2017 and ₹70,00,000/- has been spent on advertising the Infringing Product in the three years prior to filing the present Petition.

4.3 The Petitioner is guilty of taking contrary stands in its response to first examination reports as compared to its stand in the present Suit. In its Reply to the Examination Report, the Petitioner stated that the Cited Mark was visually and conceptually dissimilar to the Petitioner's Mark in view of the 'circle drawing' and the differently stylized font. Thus, the Petitioner cannot now take the stand that the Impugned Mark is visually and conceptually deceptively similar to the Petitioner's Trade Mark. The Petitioner cannot approbate and reprobate as has been held by this Court in *S.K. Sachdeva v. Shri Educate Ltd*, 2016 (65) PTC 614 and *Raman Kwatra and Anr. v. M/s KEI Industries Ltd.*, 2023:DHC:000083.

4.4 The Petitioner has not disclosed that it is not the first adopter / user of 'SUN' formative marks under the relevant class(es). There are several third-party registrations and users of the 'SUN' formative marks for identical goods. Thus, the Petitioner cannot claim a monopoly on 'SUN'



- formative marks as has been held in *Hindustan Unilever limited v. Ashique Chemicals*, 2011 SCC OnLine Bom 1061.
- 4.5 The Petitioner has registrations over the Petitioner's Mark, which is registered as a Device Mark and not over the word, 'SUNFLAME' as its Trade Mark Application No. 438579 for registration of the Word Mark, 'SUNFLAME', has lapsed on 01.06.1999. Thus, the Petitioner cannot claim statutory rights over the word, 'SUNFLAME'. The Petitioner also cannot claim any statutory rights over the word, 'SUNFLAME' through the Petitioner's Mark as has been held in *Vasundhra Jewellers Pvt. Ltd. v. Kirat Vinodbhai Jadvani and Anr.*, 2022 SCC OnLine Del 3370. However, the Petitioner has illegally, asserted statutory rights in the word, 'SUNFLAME' by relying on its registrations over the Petitioner's Mark, thereby misleading this Court.
- 4.6 It is a settled principle of Trade Mark law that competing Trade Marks have to be compared as a whole and cannot be dissected. Registration of a Trade Mark confers exclusive right to the use of the Trade Mark as a whole, therefore, the enforcement of a registered Trade Mark has to be as a whole as has been held in the judgment of *Kaviraj Pandit Durga Dutt Sharma v. Navaratna Pharmaceutical Laboratories*, (1965) 1 SCR 737 and *Superfil Products Limited a public limited v. Seal Nets Private Limited*, AIR 2015 Madras 89.
- 4.7 The Impugned Mark registered is inherently distinctive with a unique colour combination and device of the word, 'SUN'. The Impugned Mark is in a distinct colour scheme of yellow and orange hues and there is gradual progression of the colour from light yellow to deep orange referencing the different intensities of a fire. In furtherance, the



Impugned Mark contains a colourless half rising sun behind the letters with its rays coming out of it. On the contrary the Impugned Mark in a plain red / black colour, and the Petitioner's Mark contains a circle behind the word in the same red / black colour. Accordingly, upon perusing the rival Marks, it is evident that not only the rival Marks have distinct styling of the letters and the font used, therein, but also various other features which are completely different from each other. Thus, the overall visual appeal of the rival Marks is completely dissimilar. The Impugned Mark is not only visually but also phonetically, structurally and conceptually different from the Petitioner's Mark. The overall concept of the Petitioner's Mark and that of the Impugned Mark is completely different and for the said reason, there is no scope of likelihood of confusion, let alone, actual confusion. Even otherwise, the Petitioner has failed to establish any secondary meaning in the word 'SUNFLAME'. Any such acquired distinctiveness has to be proved by way of trial as has been held in *Marico Limited v. Agro Tech Foods Limited*, 2010 (44) PTC 736 (Del.) (DB), *BigTree Entertainment Pvt. Ltd. v. D. Sharma and Anr.*, [257] 2019 DLT 77, *PhonePe Private Limited v. Ezy Services and Anr.*, (2023) 95 PTC 154.

4.8 In view of the aforesaid facts and circumstances, the registration of the Impugned Mark is not liable to be cancelled.

#### **SUBMISSIONS ON BEHALF OF RESPONDENT NO. 2:**

5. The learned CGSC appearing for Respondent No. 2 submitted that Respondent No. 2 is a formal party and shall comply with any directions passed by this Court.



### **ANALYSIS AND FINDINGS:**

6. Having considered the averments made in the Petition and the accompanying documents, it is evident that the Petitioner has raised substantial challenges to the registration of the Impugned Mark, *inter alia*, on the grounds of dishonest and subsequent adoption of the Impugned Mark by Respondent No. 1. The registration of the Impugned Mark by Respondent No. 2 is challenged as Respondent No. 1 has adopted the Impugned Mark which completely subsumes the Petitioner's Mark for the goods in the same class and having overlapping trade channels and consumers.

### **Prior Use and Goodwill of the Petitioner's Mark**

7. The material placed on record demonstrates that the Petitioner is the prior adopter and user of the Petitioner's Mark. The Petitioner has been able to establish its case of being the prior user of the Petitioner's Mark which was coined and adopted by the Petitioner in 1980.

8. The Petitioner has acquired considerable goodwill in the market which is evident through the year wise annual sales data produced by the Petitioner, which shows sales of ₹3,00,00,36,000 in the FY 2022-23. Respondent No. 1 has applied for registration of the Impugned Mark in 2017 on a proposed to be used basis in Class 11 with respect to goods identical or similar to the Petitioner's Products under the Petitioner's Mark. The adoption of the Impugned Mark by Respondent No. 1 is nothing but an attempt to ride the goodwill of the Petitioner's Trade Mark without any justification for the same.

9. It is trite law that a prior user's rights will override the rights of a subsequent user even though the latter's Mark may be a registered Trade Mark. The Petitioner has categorically pleaded use of the Petitioner's Mark



from 1980 and the claim of prior use is substantiated by various invoices produced by the Petitioner, therefore, it has claimed that the use of the Petitioner's Mark is prior to the use of the Impugned Mark by Respondent No. 1. Respondent No. 1 has themselves applied for the registration of the Impugned Mark in 2017 on a proposed to be used basis. Thus, it has been established that the Petitioner is the prior user of the Petitioner's Mark.

10. Therefore, prior use of the Petitioner's Mark, registrations and the continuous and uninterrupted use of the Petitioner's Mark in the course of trade in respect of sale, processing and marketing of the Petitioner's Products demonstrate that the Petitioner's Mark has become associated with the Petitioner.

### **Deceptive Similarity of the Impugned Mark**

11. Respondent No. 1 has merely replaced the letter 'M' from the Petitioner's Mark, and with the letter 'R' in the Impugned Mark, which is clearly an attempt to come as close as possible to the Petitioner's Mark and is insufficient to distinguish the rival Marks and as it has been held by this Court in *South India Beverages* (supra) that Courts should not engage in technical gymnastics to find minor differences in conflicting marks. Further, in *Marico Ltd.* (supra) it has been held by this Court that most successful form of copying is to employ enough points of similarity to confuse the public with enough points of difference to confuse the Courts. Comparing the Petitioner's Mark and the Impugned Mark as a whole, the Impugned Mark is deceptively similar to the Petitioner's Mark and is likely to cause confusion in the mind of an average consumer and therefore, the judgments in *Kaviraj Pandit* (supra) and *Superfil Products* (supra) do not hold the case of Respondent No. 1.



12. Infringement occurs even without side-by-side comparison if a consumer of average intelligence, upon later seeing the defendant's mark, is likely to wonder about its association with the plaintiff's. Imitation of the central idea or commercial impression of a mark, not just its visual or phonetic details, can also amount to idea infringement as has been held by this Court in **KRBL Ltd.** (supra). Having established the deceptive similarity of the Impugned Mark and the likelihood of confusion between the rival Marks, the decisions of this Court in **Marico Limited** (supra), **BigTree Entertainment** (supra), **PhonePe Private** (supra) do not help the case of Respondent No. 1.

### **CONCLUSION**

13. Respondent No. 1 has subsequently adopted the Impugned Mark, which is identical and / or deceptively similar to the Petitioner's Mark for identical goods. Such conduct undermines the sanctity of the Register of Trade Marks and highlights the necessity to uphold and protect the rights of *bona fide* proprietors. It is evident that the entry relating to the Impugned Mark is wrongly remaining on the Register of Trade Marks warranting rectification under Section 57 of the Act.

14. Accordingly, there exists an irrefutable and real likelihood of confusion in the minds of the public. The Impugned Mark is deceptively similar to the Petitioner's Mark, thereby creating likelihood of confusion and deception in the trade and among consumers. Such adoption is with a *mala fide* intent to capitalize on the Petitioner's established goodwill and reputation. Hence, the registration granted in favour of the Respondent No. 1 is violative of Section 9(2)(a) and Section 11 of the Act. The Petitioner has not suppressed any material fact and has revealed all material facts before



the Court and are not guilty of approbating and reprobating their stand and therefore, the decisions in *S.K. Sachdeva* (supra) and *Raman Kwatra* (supra) will not hold the case of Respondent No. 1.

15. In view of the Petitioner's prior use, the identity of the competing Marks, the similarity of goods, the likelihood of confusion, and the lack of *bona fide* adoption or use by Respondent No. 1, the Impugned Mark is liable to be removed from the Register of Trade Marks.

16. Accordingly, the present Petition is allowed, and Respondent No. 2 is directed to remove / expunge / rectify the Impugned Mark, 'SUNFLARE



/ ' registered under Trade Mark Application No. 3455874 in Class 11 from the Register of Trade Marks.

17. The present Petition and the pending Application stand disposed of.

18. A copy of the present order is directed to be sent to the Trade Mark Registry at e-mail: [llc-ipo@gov.in](mailto:llc-ipo@gov.in), for necessary compliance.

**TEJAS KARIA, J**

**JANUARY 31, 2026/ 'AK'**