

CNR : KLHC010391182018



2026:KER:53702

"C.R."

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

FRIDAY, THE 24TH DAY OF JULY 2026 / 2ND SRAVANA, 1948

WP(C) NO. 7528 OF 2018

PETITIONER:

**S.PRASANNAN
AGED 73 SON OF SREEDHARAN KANNUVELITHARAYIL,
PATTANAKKADU P.O, CHERTHALA, ALAPPUZHA, KERALA.**

**BY ADVS.
SHRI.SATISH MURTHI
SMT.M.UMA DEVI**

RESPONDENTS:

- 1 CONTROLLER GENERAL OF PATENTS
DESIGNS AND TRADEMARKS, BOUDHIK SAMPADA BHAVAN,
ANTOP HILLS, S.M ROAD, MUMBAI - 400 037.**
- 2 ASSISTANT REGISTRAR OF TRADEMARKS
TRADEMARK REGISTRY, CHENNAI,
INTELLECTUAL PROPERTY BUILDING,
G.S.T ROAD, GUINDY, CHENNAI - 600032.**

**BY ADVS.
SMT.C.G.PREETHA, CGC**

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**SRI.K.S.PRENJITH KUMAR
SMT.SREELAKSHMI SURESH, CGC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03.07.2026, THE COURT ON 24.07.2026 DELIVERED THE
FOLLOWING:**



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"C.R"

JUDGMENT

The above writ petition is filed with the following prayers:

a. To issue a writ of Mandamus or other appropriate writ, order or direction, directing the 1st and 2nd respondents to accept Ext.P4 application for Renewal of Registration and effect Renewal of Registration of Trademark Application Number 1368879

b. To grant such other writ order or direction to the 1st respondent in the larger interests of public, as the Hon'ble Court may deem fit and proper in the facts and circumstances.

2. The petitioner is running a small enterprise under the name and style "Vayalar Invention Centre", which is engaged in the manufacturing of "Water Level Controllers" under the brand name "VIC". As per Ext.P1, the petitioner applied for registration of the trademark "VIC". The petitioner



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also applied for a patent in respect of his unique invention. As per Ext.P3, the trademark was registered in the name of the petitioner vide certificate No.682755 dated 26.02.2008. The registration is effective from the date of application and is valid for a period of ten years from the said date.

3. According to the petitioner, he did not receive any notice or intimation from the first respondent regarding the expiry of the registration, as contemplated under Section 25(3) of the Trade Marks Act, 1999 (for short, "the Act, 1999"). Upon verifying the status of the trademark in the Trademarks Registry on 31.08.2017, the petitioner found that the trademark continued to be shown as "Registered", accompanied by an alert stating: "Trademark is likely to be removed due to non-filing of renewal request within the prescribed time limit." The petitioner initially attempted to submit the renewal application online; however, the same was not accepted. Thereafter, on 31.08.2017, the petitioner submitted Ext.P4 representation



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along with the prescribed renewal application and the requisite renewal fee of ₹10,000/- by way of a Demand Draft. Subsequently, as per Ext.P5, the second respondent returned Ext.P4 application stating that the mark has expired already on 05.07.2017 and cannot be renewed. Aggrieved by Ext.P5 return intimation issued by the second respondent, the petitioner has approached this Court by filing the present writ petition.

4. I have heard the learned counsel for the petitioner, Adv. Uma Devi.M and the learned CGC, Smt. Sreelakshmi Suresh.

5. It is an admitted fact that the application for registration of the trademark was filed on 05.07.2005 and that the registration remained valid for a period of ten years, i.e., up to 05.07.2015. It is the specific case of the petitioner that the second respondent failed to comply with the mandatory requirement of issuance of notice under Section 25(3) of the Trade Marks Act, 1999 and Rule 58 of the Trade Marks Rules,



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2017 (for short, "the Rules, 2017").

6. According to the petitioner, since no notice was received, the application for renewal submitted by the petitioner ought to have been accepted and the registration of the trademark ought to have been done by the second respondent.

7. The learned Central Government Counsel appearing for the respondents, on the other hand, contended that the petitioner had not submitted any application for renewal within the period prescribed under the Act, 1999. According to the respondents, the renewal application was submitted only on 31.08.2017, which was out of time. It was further contended that, since the registration of the trademark had expired on 05.07.2015, Ext.P5 return intimation was rightly issued by the second respondent informing the petitioner that the mark could not be renewed.

8. The documents produced in this case reveal that



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the petitioner submitted Ext.P4 application dated 31.08.2017 seeking renewal of the trademark registration, along with the prescribed renewal fee.

Section 25(3) of the Act, 1999 and Rule 58 of the Rules 2017 reads as follows:

25. Duration, renewal, removal and restoration of registration.-

(1) XXXXX

(2) XXXXX

(3) At the prescribed time before the expiration of the last registration of a trade mark the Registrar shall send notice in the prescribed manner to the registered proprietor of the date of expiration and the conditions as to payment of fees and otherwise upon which a renewal of registration may be obtained, and, if at the expiration of the time prescribed in that behalf those conditions have not been duly complied with the Registrar may remove the trade mark from the register:

Provided that the Registrar shall not remove the trade mark from the register if an application is made in the prescribed form and the prescribed fee and surcharge is paid within six months from the expiration of the last registration of the trade mark and shall renew the registration of the trade mark for a period of ten years under sub-section (2).



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58. Notice before removal of trademark from register.

(1) In case no application for renewal of the registration in the prescribed form together with the specified fee has been received, the Registrar shall send, not more than six months before the expiration of registration of the trademark, a notice in Form RG-3 at the address of service informing the registered proprietor of the approaching date of expiration and the conditions, if any, subject to which the renewal of the registration may be obtained.

(2) Where, in the case of a trademark the registration of which (by reference to the date of application for registration) becomes due for renewal, the trademark is registered at any time within six months before the date on which renewal is due, the registration may be renewed by the payment of the renewal fee within six months after the actual date of registration and where the renewal fee is not paid within that period, the Registrar shall subject to rule 60, remove the trademark from the register.

(3) Where, in the case of a trademark the registration of which (by reference to the date of application for registration) becomes due for renewal, the trademark is registered after the date of renewal, the registration may be renewed by the payment of the renewal fee within six months of the actual date of registration and where the renewal fee is not paid within that period the Registrar shall, subject to rule 60, remove the trademark from the register.

(4) The renewal of registration of a collective trademark or a certification trademark shall be in Form TM-R along with the prescribed fee as specified in the First Schedule."



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Section 25(3) of the Act, 1999, provides for the issuance of a notice to the registered proprietor before the removal of a trademark from the register, in the prescribed manner. The authorities ought to have issued a notice in Form O-3/RG-3 informing the registered proprietor of the date of expiry but in the instant case, the aforesaid notice was not issued by the respondents before expiry of the trademark registration. Thus, the respondents failed to comply with the mandatory requirement prescribed under Section 25(3) of the Trade Marks Act, 1999 and Rule 58 of the Trade Marks Rules, 2017.

In the absence of compliance with the mandatory requirement of issuance of such notice under Section 25(3) of the Act, 1999, the respondents cannot be permitted to remove the trademark from the register.

Accordingly, the writ petition is allowed as follows:

The respondents are directed to issue a fresh notice to



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the petitioner in compliance with Section 25(3) of the Trade Marks Act, 1999 and Rule 58 of the Trade Marks Rules, 2017. Upon receipt of such notice, the petitioner shall submit a fresh application for renewal of the trademark along with the prescribed fee, if not already submitted, within the time stipulated in the notice. Thereafter, the respondents shall consider and dispose of the renewal application strictly in accordance with law, after affording the petitioner an opportunity of being heard.

**Sd/ -
SHOBA ANNAMMA EAPEN
JUDGE**

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APPENDIX OF WP(C) NO. 7528 OF 2018

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF THE TRADEMARK APPLICATION NO 1368879 OF THE PETITIONER.
EXHIBIT P2	TRUE COPY OF PROSECUTION HISTORY OF TRADEMARK APPLICATION NUMBER 1368879.
EXHIBIT P3	TRUE COPY OF REGISTRATION CERTIFICATE DATED 26-02-2008.
EXHIBIT P4	TRUE COPY OF APPLICATION FOR RENEWAL DATED 31-08-2017.
EXHIBIT P5	TRUE COPY OF RETURN INTIMATION UNDATED NO.R & EDP 656.