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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 10th August, 2026

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CNR No. DLHC011057322025

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C.O. (COMM.IPD-TM) 284/2025 & I.A. 32460/2025**STONEX INDIA PRIVATE LIMITED**

.....Petitioner

Through: Ms. Meenakshi Ogra, Mr. Tarun Khurana, Mr. Samrat S Kang, Mr. Vishnu Gambhir, Ms Shruti Gupta and Ms. Simridhi Saral, Advocates.

versus

MOHIT KUMAWAT & ANR.

.....Respondents

Through: Ms. Nidhi Raman, CGSC with Mr. Arnav Mittal, GP and Ms. Nikita Singh, Advocates for R-2.

CORAM:**HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J. (ORAL)**

1. This petition is filed by the Petitioner under Section 57 of the Trade Marks Act, 1999 ('1999 Act') seeking removal of the trademark



STONEX WORLD registered under Trademark Application No. 5957794 in Class 19 in favour of Respondent No. 1, with a consequent direction to Respondent No. 2/Registrar of Trade Marks to remove the mark from the Register and rectify the same.



2. To the extent necessary, case of the Petitioner is that Petitioner is a company incorporated on 24.09.2007. Promoters of the Petitioner, namely, Agarwal Brothers started a family business of selling marble in 2001 and subsequently, established Stonex brand and formed a partnership firm to manage and run the business under the name 'Stonex India'. Thereafter, the Petitioner company was set up under the name 'GS Stonex India Private Limited', which was later changed to the present name. Petitioner specializes in luxury, imported high quality marble and natural stones for high-end residential and commercial projects.

3. It is stated that in 2003, Petitioner's predecessor-in-interest conceived and adopted the trademark STONEX (word) and device mark



. Over a period of time, all rights, title and interest in the assets of the partnership firm including the trademark STONEX were transferred in favour of the Petitioner. The mark STONEX is stated to be an arbitrary mark, coined by combining 'STONE' and 'X' and signifies that the products offered by the Petitioner have a unique '*X factor*' and carries an assurance that the marble/natural stone has achieved excellence. Petitioner's predecessor-in-interest and Petitioner applied for and secured registrations in India of the STONEX mark and its derivative forms as detailed in paragraph XIV of the petition. Petitioner also has registrations in the STONEX marks in 56 international jurisdictions as detailed in paragraph (XV) of the petition.

4. It is stated that since the time of adoption of the STONEX mark, the



same has been used extensively, uninterruptedly and openly along with its formative marks and Petitioner offers over 1,000 varieties of marble and natural stones in diverse colours and textures, sourced from top quarries in Italy, Spain, Greece, Brazil and Turkey, under the said marks. Petitioner has garnered enviable reputation and goodwill in the STONEX marks, which can be seen from the number of prestigious awards received as also social media presence and revenues generated over the years, details of which are brought forth in the petition.

5. It is stated that the cause of filing the present petition arose owing to dishonest adoption of the device marks STONEX WORLD/



in relation to goods, which are

identical and/or deceptively similar to those of the Petitioner falling in Class 19, namely, *marbles, granites, slabs, stone monuments, marble handicrafts* and other allied and cognate goods, by Respondent No. 1. Petitioner avers that Respondent No. 1 has been openly and contiously carrying on trade and business under the impugned marks and promoting them through various channels, including its official websites and social media platforms such as Facebook, Instagram, Twitter and LinkedIn as also through third party e-commerce platforms. On gaining knowledge of the dishonest adoption and use, Petitioner sent a cease-and-desist notice dated 24.05.2025, in response to which Respondent No. 1 set up a defence of registration in the mark



and also stated that addition of the word 'WORLD'



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coupled with non-use of the word 'STONEX' in isolation, was enough to distinguish the mark of the Petitioner. Details of registration of the mark



are as follows:-

TM Appli. No./Dt.	Applicant Name	Class/ Goods	User Detail	Trademark	Status
5957794/ 30.05.2023	Mohit Kumawat, Proprietor of Stonex World, Single Firm	19/ Marbles, Granites, Slabs, Stone Monuments, Marble Handicrafts included in Class 19	Proposed To Be Used	 STONEX WORLD (Device)	Registered

6. Learned counsel for the Petitioner submits that Respondent No. 1 has



dishonestly and deliberately adopted the impugned mark STONEX WORLD for identical goods to come close to the Petitioner, which has earned enviable reputation and goodwill owing to sale of products under the STONEX marks. Petitioner's STONEX trademark is a registered mark and is 'earlier trademark' within the meaning of Section 11 of 1999 Act and the



impugned mark STONEX WORLD is nearly identical/deceptively similar to Petitioner's mark. The rival goods being identical and consumer base and trade channels being common, there is every likelihood of confusion



amongst members of public. While it is true that rival marks are to be compared as a whole, but the dominant mark test is not antithetical to the anti-dissection rule. The dominant part of all device marks of the Petitioner is STONEX and Petitioner also has registration in word mark STONEX separately. Dominant part of Respondent No. 1's device mark is also STONEX and addition of other elements including the word WORLD, is insufficient to distinguish the marks of competing parties and therefore, registration of impugned mark violates Section 11(1) of 1999 Act.

7. Learned counsel also raises a serious procedural manipulation by Respondent No. 1 as also lapse on part of Respondent No. 2 at the time of registration of the impugned mark. It is submitted that while applying for registration, Respondent No. 1 deliberately sought registration of a fragmented part of the device containing only the abbreviation i.e.,



, concealing the lower half of the device mark where the words 'STONEX WORLD' are incorporated. This is not an act of inadvertence or clerical error, but a conscious and calculated design to circumvent procedure of examination and scrutiny so that Petitioner's STONEX marks on the Register of the Trade Marks, are not cited as conflicting marks.

8. It is further submitted that it is a known practice that when an application is filed with incomplete or erroneous depiction of the mark sought to be registered, Trade Marks Registry issues a requisition in the form of Examination Report, directing the Applicant to file a Form TM-M



to rectify the defect or confine the mark to what is in the application. On submission of the Form, the application is often processed for acceptance without fresh or substantive re-examination. Being fully aware of this procedural mechanism, Respondent No. 1 pro-actively ensured that the applied mark escapes substantive scrutiny *qua* Petitioner's earlier deceptively similar marks, which is evident from the record of the application. Two separate Examination Reports were issued by the Registry, both addressing only procedural or technical irregularities and there was no mention of any conflicting mark. In the First Examination Report dated 10.10.2023, Respondent No. 1 was "*required to file TM-M with fee to confine the TRADEMARK as device uploaded by the Applicant does not contain the word STONEX WORLD*". Pursuant thereto, Respondent No. 1 filed a TM-M on 05.11.2023, which was duly taken on record. Thereafter, owing to an error in the filing particulars, a second Examination Report dated 12.02.2024 was issued directing that "*Applicant is required to correct the Category of Proprietor name by way of filing TM-M with requisite fees*". Upon filing another TM-M, this defect was rectified and the trademark was accepted without any substantive examination on the aspect of conflicting mark or even the factum of the words STONEX WORLD being missing in the original uploaded version. This, according to the learned counsel, is nothing short of deceit, besides being serious circumvention of the examination process envisaged under Section 18(4) of 1999 Act read with Rule 33 of Trade Marks Rules, 2017 ('2017 Rules') and on this short ground, the registration deserves to be set aside under Section 57(2) of 1999 Act.

9. Before proceeding to examine the aforesaid contentions, it needs to



be noted that Respondent No. 1 has chosen not to appear in the matter. On 20.03.2026, Court recorded that as per affidavit of service filed by the Petitioner, Respondent No. 1 had refused service of notice on 09.02.2026. In the interest of justice, adverse order was deferred and matter was adjourned, making it clear that if Respondent No.1 was unrepresented thereafter, he shall be set *ex parte*. Respondent No. 1 chose not to appear and was set *ex parte* on 03.08.2026. Insofar as Respondent No. 2 is concerned, short written submissions have been filed stating that registration was granted in favour of Respondent No. 1 in statutory compliance of the provisions of 1999 Act. Two Examination Reports were issued, whereafter Respondent No. 1 complied and rectified the error as also included the words STONEX WORLD terming the omission to be a clerical error and hence, the mark was accepted and registered *albeit* Respondent No. 2 is ready to abide by any direction passed by this Court.

10. Heard learned counsels for the parties and examined the submissions.
11. The first and foremost submission that needs consideration is whether



the registration of the impugned mark STONEX WORLD was obtained by procedural manipulation. Section 57 grants power to this Court as also to the Registrar of Trade Marks to cancel or vary the registration of a trademark on ground of any contravention or failure to observe a condition entered on the registered in relation thereto on an application made in the prescribed manner by any person aggrieved. The ethos of the provision is to ensure that no mark remains on the Register without sufficient cause or by way of a wrong entry, so that purity of the Register is maintained. Section 18 deals



with the procedure for registration of a mark and sub-Section (4) of Section 18 provides that subject to the provisions of 1999 Act, Registrar may refuse the application or may accept it absolutely or subject to such amendments, modifications, conditions or limitations, if any, as he may think fit. Rule 33 of 2017 Rules provides that the Registrar shall cause the application to be examined as per provisions of 1999 Act, wherein a search shall also be conducted amongst the earlier trademarks, registered or applied for registration, for ascertaining whether there are on record, in respect of the same goods or services or similar goods or services, any trademark identical with or deceptively similar to the trademark applied for. There is no gainsaying that the procedure delineated in Section 18 read with Rule 33 has to be mandatorily complied with and any violation has to be strictly construed and seen.

12. Coming to the instant case, learned counsel has made serious allegations that when Respondent No. 1 applied for registration of the impugned mark, he deliberately omitted the words STONEX WORLD and the application contained a fragmented or an incomplete device



. Copy of the application is handed over in Court by counsel for the Petitioner and bears testimony to this plea. Respondent No. 1 has chosen not to contest this petition and therefore, the averments of the petition including the aforesaid allegations are deemed to be admitted. Significantly, the First Examination Report dated 10.10.2023 issued by Respondent No. 2 in no uncertain terms reflects that the Registry was



conscious of the fact that incomplete device mark had been uploaded, which did not contain the words STONEX WORLD. Respondent No. 1 was called upon to file a TM-M with fee to confine the trademark to the device as uploaded. Subsequently, Respondent No. 1 filed another TM-M, in which he brought forth that omission of the words STONEX WORLD was a clerical error and he should be permitted to rectify the device mark for registration. This TM-M was accepted and the impugned mark



as a whole proceeded to registration. Two questions glaringly arise at this stage. Firstly, if Respondent No. 2 knew that an incomplete fragmented device mark, without the words STONEX WORLD, was uploaded in the first instance and a direction was already issued to Respondent No. 1 to confine the mark to the uploaded device, why was the device mark accepted with the words STONEX WORLD and that too, without even enquiring whether this was a mere clerical error or a deliberate omission.

13. Secondly and importantly, if the words STONEX WORLD were included in the device mark at a later stage, Respondent No. 2 ought to have conducted a substantive examination and scrutiny of the Register to search if there were any identical, similar or deceptively marks on the Register, so as to ensure that registration of applied mark does not fall foul of Section 11(1) of 1999 Act, which proscribes registration of a mark which is identical to an earlier trademark registered for similar goods/services or similar to an earlier trademark, registered for identical/similar goods or services covered by the earlier trademarks and is likely to cause confusion. Unfortunately and



for reasons not coming forth even in the written submissions of Respondent No. 2, this exercise was never carried out and to my mind, this is a serious procedural violation, owing to which Respondent No.1 succeeded in its design to obtain registration in the absence of Petitioner's marks being cited as conflicting marks.

14. Learned counsel for the Petitioner is also right in her submission that Petitioner is a registered proprietor of the STONEX marks and the registrations accorded in favour of the Petitioner, as tabulated in paragraph XIV of the petition, show that Petitioner has registration for word mark STONEX as also that STONEX is a dominant part of all its other registered device marks. Division Bench of this Court in *M/s. South India Beverages Pvt. Ltd. v. General Mills Marketing & Anr., 2014 SCC OnLine Del 1953* has held that though competing marks must be compared as a whole, yet it is permissible to accord more or less importance or dominance to the essential part of the mark in case of composite marks. A particular element of a composite mark, which enjoys greater prominence vis-à-vis other constituent elements, may be termed as a dominant mark. It was also observed that the principle of anti-dissection does not impose an absolute embargo upon the consideration of the constituent elements of a composite mark and the said elements may be viewed as a preliminary step on the way to an element determination of probable customer reaction to the conflicting composites as a whole. Thus, the principle of anti-dissection and identification of 'dominant mark' are not antithetical to one another and rather complement each other. Importantly, it was also observed that dominant features are significant because they attract attention and consumers are more likely to remember and rely on them for



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identification of the product and usually, the dominant portion of the mark is that which has the greater strength or carries more weight. Recently, the Supreme Court in *Pernod Ricard India Private Limited and Another v. Karanveer Singh Chhabra*, 2025 SCC OnLine SC 1701, has confirmed this position of law.

15. Applying these judgments, when the impugned mark



STONEX WORLD' is compared with Petitioner's earlier marks, there is deceptive similarity between them. The rival goods being identical and trade channels and consumer base being common, there is every likelihood of confusion amongst members of public and hence, registration of



Respondent No.1's mark STONEX WORLD', is contrary to the prescription in Section 11(1) of 1999 Act.

16. For both the abovestated reasons, impugned registration cannot be sustained in law. Thus the petition is allowed, cancelling registration of the



impugned mark STONEX WORLD', registered under Application No.5957794 in Class 19 in favour of Respondent No.1. Respondent No.2 is directed to remove the entry of the mark from the Register of Trade Marks



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within a period of eight weeks from today and rectify the Register, for the sake of maintaining its purity.

17. Petition stands allowed and disposed of in the aforesaid terms along with the pending application.

JYOTI SINGH, J

AUGUST 10, 2026/AK