



BEFORE:  
The Hon'ble JUSTICE RAVI KRISHAN KAPUR

IPDATM/31/2023

BIKAJI FOODS INTERNATIONAL LIMITED(ORA /9/2019/TM/KOL)  
VS  
JAGARANATH PRASAD AND ANR

For the petitioner : Mr. Biswaroop Mukherjee, Adv.  
Mr. Pradipta Bose, Adv.

For the respondent no. 2 : Mr. Indrajeet Dasgupta, Adv.

Heard on : 07.01.2026

Judgment on : 07.01.2026

**Ravi Krishan Kapur, J.:**

1. This is an application for rectification and for expunging the entry relating to registered mark "Tana Tan" under no. 2650662 in class 30.
2. Despite service, the respondent no. 1 remains unrepresented.
3. Briefly, the petitioner is engaged in the business of manufacture, sale and distribution of sweets and edible articles for human consumption, including bhujia, aloo bhujia, cornflakes mixture, kaju mixture, deep fried masala peanuts, mixtures, hara chiwda, moong dal, samosa, mathri, papdi mixture, papad, namkeens and various other items.
4. The name Bikaji is not only the house mark of the petitioner but is also used and applied as a trademark. The petitioner claims to be the prior user and registered proprietor of the mark "TANA TAN", with respect to Bhujia, Namkins, Coffee, Tea, Cocoa, Sugar, Rice, Biscuits, Bread, Cakes, Bakery products, Honey, Yeast, Spices, and various



other goods included in Class 30. The petitioner has also obtained registration in relation to the mark “TANA TAN” and claims to be the prior user since 1 February, 1994. In support of such claim, the petitioner relies on the status report of registration in relation to the mark “TANA TAN”, the registration certificate and the renewal certificate in respect thereof. The petitioner also relies on bills and details to show huge promotional and advertising expenses incurred in relation to the mark “TANA TAN”.

5. The grievance of the petitioner is directed against the wrongful registration of a deceptively similar and identical mark TANA TAN by the respondent no. 1 on 27 December 2013 falsely claiming to be user of the same since 2 April 2008. The impugned mark has been registered with a limitation that the same is only for goods and services for sale in Eastern India. The petitioner assails the registration in favour of the respondent no. 1 on the ground of non-user and that the same affects the purity of the Register. A serious allegation of fraud is also alleged by the petitioner.
6. On behalf of the Registrar of Trademarks, it is submitted that on the basis of the documents and evidence relied on by the petitioner, the petitioner is indisputably the prior user and adopter of the mark “TANA TAN” as well as “BIKAJI TANA TAN”. The respondent no. 1 has chosen not to file any counter statement nor any documentary evidence to controvert the case of the petitioner.
7. A perusal of Section 47 of the Act, would reveal than a registered trade mark is liable to be taken off the register if the mark has not been used for a period of five years and three months prior to the date of



filing of the petition. This has been specifically mentioned in section 47(1)(b) of the Act.

8. On the basis of the materials on record and the evidence in support of the claim of the petitioner, it appears that the petitioner is the prior and continuous user of the mark “TANA TAN” and “BIKAJI TANA TAN”. The impugned mark is strikingly identical and deceptively similar to the petitioner's mark. The respondent no. 1 has been unable to show any credible evidence of user of the impugned mark. The respondent no. 1 is a subsequent proprietor and has obtained registration in relation to a similar class of goods which is likely to cause dilution of the registered mark of the petitioner.
9. The impugned mark “TANA TAN” subsumes the petitioner's “TANA TAN” mark in its entirety. In addition the impugned mark does not render the same in any manner different from the petitioner's prior adopted mark when considered in totality. The mark TANA TAN is used on a standalone basis as well as in conjunction to the house mark Bikaji.
10. In the absence of any pleading or evidence in support thereof regarding bona fide intention of use, there is no other option but to accept the case of the applicant. Both products are in the same category of goods and would necessarily involve the services of identical trade channels having the same consumers. The documents relied on by the petitioner demonstrate that the mark ‘TANA TAN’ has been used extensively, uninterruptedly and continuously since 1994. The petitioner has also incurred substantial advertisement and promotional expenses in creating goodwill and reputation of its mark.



11. There are no grounds to controvert the evidence relied on by the petitioner. The impugned mark has been obtained in bad faith and only to encash on the reputation and goodwill of the prior mark of the petitioner. The registration in favour of the respondents is also in contravention of sections 9, 11, 47, 57 of the Act.
12. In such circumstances, the removal of the impugned mark from the Register of Trade Marks is essential to maintain the purity of the Register. *In Paine and Co. 's Trade Marks (1893) 2 Ch. 567, it was observed that "The purity of the Register of Trade Marks is of much importance to trade in general, quite apart from the merits or demerits of particular litigants, 'and it is the duty of the Tribunal to see that no word not 'adapted to distinguish' shall be put on the Register in the interest of other traders, wholesale and retail, and of the public. If this were not so, the large and wealthy firms with whom the smaller folk are unwilling to litigate, could by a system of log-rolling divide amongst themselves all the ordinary words of description and laudation in the English language.* It is also evident that the impugned mark has been conceived of dishonestly and in bad faith.
13. In such circumstances, the instant application is allowed. There shall be an order in terms of prayer (a). The impugned mark "TANA TAN" under the entry relating to Trade Mark no. 2650662 in Class 30 in the name of the respondent no. 1 is directed to be rectified and expunged from the Register altogether.

(RAVI KRISHAN KAPUR, J.)