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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.04.2025**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

CMA(PT) No.5 of 2025
&
CMP No.10003 of 2025

M/s.Maya Appliances Pvt. Ltd.
Having its registered office at
10/5, Royal Enclave,
Besant Avenue,
Adyar, Chennai 600 020
and having office at
3/140 IT Highway
Oggiyam Thoraipakkam Chennai-600 097
Represented by its Authorized Signatory
Mr.E.Mohan ... Appellant

-vs-

1. Deputy Controller of Patents and Designs
   The Patent Office, Chennai
   Intellectual Property Building
   G.S.T.Road, Guindy
   Chennai-600 032, Tamil Nadu

2. Versuni India Home Solutions Limited,
   Novel Office Brigade Tech Part, 1st Floor,
   Tower-B, Whitefield,
   Bengaluru-560 066, India. ... Respondents

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Prayer: Civil Miscellaneous Appeal (Patents) filed under Section 117-A of the Patents Act, 1970 prays that this Court may pleased to:

(i) to set aside the impugned order dated 04.04.2025 passed by the 1st Respondent (Deputy Controller of Patents and Designs), whereby Patent No.452008 granted to the Appellant was revoked under Section 25(4) of the Patents Act, 1970;

(ii) To hold and declare that the subject matte rof Patent No.452008 constitutes a valid invention under the Patents Act, 1970, satisfying the criteria of novelty, inventive step, and industrial applicability;

(iii) To Direct restoration of Patent No.452008 to the Register of Patents and declare the Appellant as the lawful patentee entitled to the full benefits and statutory rights accruing thereunder; and

(iv) Any other relief which this Court may be pleased to allow in view of the facts and circumstances of the case.

For Appellant : Mr.P.S.Raman, Senior Counsel for
MR.Arun C.Mohan

For Respondents :Mr.K.Subbu Ranga Bharathi, CGSC for R1
Mr.K.Premchand and Mr.N.C.Vishal for R2

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JUDGMENT

By this appeal, order dated 04.04.2025 of the first respondent revoking the Patent No.452008 is assailed. A patent was granted to one Mr.Vijay Srinivasan in respect of an invention titled "*An Intelligent Cooking Stove System*", which was later assigned to the appellant. The second respondent herein filed a post grant opposition before the Controller. In the post grant opposition, the patent was opposed on four grounds. The first ground of insufficiency of disclosure was rejected by the Controller. The second ground relating to lack of novelty was also rejected. The second respondent had contended that the invention was excluded from patentability under Section 3(f) of the Patents Act, 1970 (the Patents Act). The said ground of opposition was also rejected. In effect, the only objection which was sustained related to lack of an inventive step.

2. Learned senior counsel for the appellant referred to the impugned order and pointed out that seven prior art documents were relied upon by the opponent. Out of these documents, he pointed out that D2 and D3 were in the Chinese language. By referring to page 80 of the paper book [internal

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page 22 of the impugned order], learned senior counsel pointed out that a finding was recorded that these documents are not being taken on record under Rule 61(2) of the Patent Rules, 2003. In spite of recording such finding, learned senior counsel submits that the drawings in D2 were relied upon to conclude that the objection under Section 25(2)(e) is sustained.

3. Learned senior counsel further submits that the appellant had initiated infringement proceedings against multiple infringers and that the defendants therein had entered into settlements and undertook not to infringe the appellant's patent. In view of the impugned order, he submits that the appellant loses the benefit of the patent and that third parties would infringe the appellant's patent with impunity.

4. Learned senior counsel for the second respondent submitted that the impugned order does not call for interference inasmuch as the rejection on the ground of lack of inventive step was not only on the basis of D2. By referring to page 82 of the paper book [internal page 24 of the impugned order], he submitted that D1, D2 and D5 were relied upon to hold that the

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impugned patent lacks an inventive step. As regards D2, he pointed out that the absence of an acceptable translation is inconsequential inasmuch as the drawing, namely, Figure – 8, is sufficient to establish that D2 discloses a leg portion connected to the top portion via a connecting mechanism.

5. By referring to the earlier granted claims, learned senior counsel submits that the claims are very widely framed and had resulted in the creation of an unjust monopoly. Therefore, he submits that the revocation is fully justified.

6. Without prejudice, he also submitted that the rejection of the other objections of the second respondent was untenable and that the first respondent may be directed to re-examine all objections, if the Court were inclined to remand the matter.

7. On examining the impugned order, it is evident that only the objection relating to lack of inventive step was upheld. In this connection, the following finding was recorded:

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> *"Documents D2 and D3 are originally in Chinese, and their machine-translated versions fall under Rule 61(2) of the Patents Rules, 2003. Therefore, these documents are not taken on record under Rule 6(2) of the Patents Rules, 2003.*
>
> *However, based solely on the drawings of D2, it is found that they depict a leg portion connected to the top portion via a connecting mechanism."*

As is evident from the above extract, the first respondent recorded categorically that D2 and D3 are not taken on record under Rule 61(2) of the Patent Rules, 2003. In the next sentence, the first respondent proceeded to rely on the drawings of D2. Such a course of action is clearly impermissible and untenable.

8. Apart from the above, on perusal of the analysis relating to lack of inventive step, it is noticeable that each prior art document is referred to and the features present and absent therein have been recorded. Thereafter, the first respondent has combined the features of D1 and D5 and also referred to the drawings in D2. Conspicuous by its absence in the impugned order is

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the reference to any pointers or cues in the cited prior arts that would cause or enable the person skilled in the art to combine such prior arts. Even with regard to the other objections raised by the second respondent, the impugned order does not set out cogent reasons for rejecting such objections. When these aspects are considered holistically, the impugned order cannot be sustained.

9. Therefore, impugned order dated 04.04.2025 is set aside and the matter is remanded for reconsideration on the following terms:

(i) In order to avoid the possibility of pre-determination, an officer other than the officer who issued the impugned order shall undertake reconsideration.

(ii) After providing a reasonable opportunity to the contesting parties, a reasoned order shall be issued within two months from the date of receipt of a copy of this order.

(iii) For the avoidance of doubt, it is made clear that no opinion has been expressed herein on the merits of the patent application or on the merits of the opposition.

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(iv) It will be open to the second respondent to file translated copies of prior arts D2 and D3. If filed, its admissibility shall be considered in accordance with the Patents Act and Rules framed thereunder.

10. Therefore, (T)CMA(PT) No.70 of 2023 stands disposed of on the above terms, without any order as to costs. Consequently, connected miscellaneous petition is closed.

29.04.2025

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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To

The Deputy Controller of Patents and Designs
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SENTHILKUMAR RAMAMOORTHY J.

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