
WHIRLPOOL CORPORATION V. REGISTRAR OF TRADE MARKS, MUMBAI & ORS.

1. CASE TITLE

Whirlpool Corporation v. Registrar of Trade Marks, Mumbai & Ors.

2. COURT AND CITATIONS

Court: Supreme Court of India | Bench: S. Saghir Ahmad, J. and K.T. Thomas, J.

Date: 26th October, 1998 | Citation: (1998) 8 SCC 1; AIR 1999 SC 22; (1998) 2 SCR Supp 359

Provisions: Article 226, Constitution of India, 1950; Trade and Merchandise Marks Act, 1958 -- Sections 2(1)(x), 56(4), 107, 109

3. FACTS OF THE CASE

Whirlpool Corporation, a globally renowned American manufacturer of household appliances, registered its trademark 'WHIRLPOOL' in India on 31st July, 1957. The registration was renewed twice but lapsed inadvertently after 1977. Notwithstanding such lapse, Whirlpool sustained its transborder reputation through international advertising and sales to American diplomatic missions in India.

In 1986, Chinar Trust applied to register the identical mark 'WHIRLPOOL.' Whirlpool filed its opposition in 1989 pleading prior use and international goodwill; the Assistant Registrar dismissed the said opposition on 12th August, 1992, and a Certificate of Registration was granted to Chinar Trust on 30th November, 1992. At Chinar Trust's instigation, the Deputy Registrar simultaneously issued a show-cause notice to Whirlpool under Section 56(4) of the Trade and Merchandise Marks Act, 1958, for cancellation of Whirlpool's renewed Certificate of Registration. Whirlpool challenged the notice before the Bombay High Court by way of a Writ Petition under Article 226, which was dismissed in limine on the ground of an available alternative statutory remedy. The Supreme Court was thereafter seized of the matter in appeal.

4. ISSUES INVOLVED

1. Whether the existence of an alternative statutory remedy under the Trade and Merchandise Marks Act, 1958 operates as an absolute bar, coram non judice, to the exercise of writ jurisdiction under Article 226 of the Constitution of India?
2. Whether the Deputy Registrar possessed jurisdiction, *ratione materiae*, to issue a suo motu show-cause notice under Section 56(4) when proceedings on the same subject-matter were already sub judice before the High Court, rendering such notice *ex-facie* void?
3. Whether Whirlpool's transborder reputation and prior use, in the absence of a subsisting domestic registration, constituted protectable goodwill sufficient to found an action in passing off?

4. ARGUMENTS OF THE PARTIES

A. Appellant -- Whirlpool Corporation:

- o Article 226 confers a plenary constitutional power upon High Courts. The alternative remedy rule is a rule of judicial policy and discretion -- not an absolute jurisdictional bar. Prerogative writs lie even where statutory appeals exist, as recognised in *State of U.P. v. Mohd. Nooh* (AIR 1958 SC 86).
- o The show-cause notice was void ab initio. Since the High Court was seized of the matter, it alone constituted the 'Tribunal' under Section 2(1)(x); the Registrar arrogated jurisdiction he did not possess, rendering his action coram non iudice. Whirlpool's transborder goodwill independently grounded a passing-off action.

B. Respondents -- Registrar of Trade Marks and Chinar Trust:

- o An efficacious statutory appeal lay under Section 109 of the Act; the writ petition was premature and was rightly dismissed in limine. Whirlpool, by its own laches, forfeited its registration, and its commercial presence in India was insufficient to establish legally cognizable goodwill.
- o The Registrar acted *intra vires*; the registration of Chinar Trust was procedurally valid and the Section 56(4) notice involved no jurisdictional excess warranting interference by a writ of certiorari or prohibition.

6. FINDINGS OF THE COURT

1. **On Writ Jurisdiction:** The Court held Article 226 jurisdiction to be plenary and incapable of curtailment by any statute. The alternative remedy rule is a rule of policy and discretion. Three well-settled exceptions exist: (i) enforcement of a Fundamental Right; (ii) violation of principles of natural justice; and (iii) the impugned order being *ex-facie* without jurisdiction or constitutional validity being in challenge. The third exception was squarely attracted.
2. **On Jurisdiction of the Deputy Registrar:** Upon meticulous statutory construction of Sections 2(1)(x), 56(4), 107, and 109, the Court held 'Tribunal' to be contextually determined by the pending proceeding. The High Court alone was the competent Tribunal; the Deputy Registrar was devoid of jurisdiction. The notice was declared void ab initio and quashed.
3. **On Transborder Goodwill:** Whirlpool's sustained transborder reputation -- maintained through international advertising and market activity in India -- was held to constitute protectable goodwill independent of domestic registration, grounding an action in passing off.

7. RATIO DECIDENDI

The *ratio decidendi* is: the power to issue prerogative writs under Article 226 is plenary in nature and cannot be ousted by an available alternative statutory remedy, that rule being one of judicial discretion only. Writ jurisdiction is properly exercisable in three recognised exceptions: (i) enforcement of a Fundamental Right; (ii) violation of natural justice; and (iii) the impugned order being *ex-facie* without jurisdiction or constitutional validity being in challenge. A statutory authority which is not the 'Tribunal' before which the proceeding is pending cannot initiate suo motu action thereunder; any such action is coram non iudice and void ab initio.

8. IMPORTANT OBSERVATIONS

- o The Court drew a foundational distinction between the 'maintainability' and 'entertainability' of a writ petition. Maintainability goes to the root of jurisdiction; entertainability is a matter of discretion. An ex-facie jurisdictionally void order can never sustain a maintainability challenge -- a court of record is never ousted merely because a statutory appeal exists.
- o The recognition of Whirlpool's transborder goodwill, without domestic registration, aligned Indian jurisprudence with the Paris Convention for the Protection of Industrial Property. The Court affirmed that a party cannot be compelled to exhaust remedies before a forum that is itself devoid of jurisdiction -- to demand otherwise would be repugnant to the rule of law.

9. PRACTICAL SIGNIFICANCE FOR LAWYERS

- o In writ practice across constitutional, tax, and administrative law, the three Whirlpool exceptions are indispensable. Counsel must demonstrate, on the face of the record, that the impugned order is ex-facie jurisdictionally void. The decision is reaffirmed in *CIT v. Chhabil Dass Agarwal* (2014) 1 SCC 603 and is routinely invoked to challenge jurisdictionally infirm orders under the Income Tax Act, GST regime, and customs legislation without ascending the statutory appellate ladder.
- o In intellectual property litigation, *Whirlpool* is the *locus classicus* for protecting transborder reputation without domestic registration -- applied in *N.R. Dongre v. Whirlpool Corporation* (1996) 5 SCC 714. Counsel advising multinational clients on Indian market entry must treat this decision as primary authority on passing-off jurisdiction and transborder goodwill.

10. CONCLUSION

Whirlpool Corporation v. Registrar of Trade Marks, Mumbai (1998) 8 SCC 1 is a *locus classicus* in Indian constitutional and administrative law. By definitively enunciating the three exceptions to the alternative remedy rule and exposing the jurisdictional nullity of the Deputy Registrar's action, the Supreme Court reinforced the plenary character of Article 226 jurisdiction and imposed principled restraint upon statutory authorities exceeding their *ratione materiae* competence. For the legal intern, mastery of this judgment is a professional imperative -- whether resisting a maintainability challenge, advising on transborder trademark protection, or assailing a jurisdictionally void revenue order. The Whirlpool principles remain the first port of call and an enduring testament to the supremacy of constitutional jurisdiction over administrative excess.