

**INTELLECTUAL
PROPERTY INDIA**

एकतन्त्र / PATENTS / अमिकल्प / DESIGNS
व्यापार चिह्न / TRADE MARKS
भौगोलिक उपदर्शन / GEOGRAPHICAL INDICATIONS



भारत सरकार
GOVERNMENT OF INDIA

व्यापार चिह्न रजिस्ट्री
बौद्धिक सम्पदा भवन

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TRADE MARKS REGISTRY
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**THE TRADE MARKS ACT, 1999
(Before the Registrar of Trade Marks, Delhi)**

IN THE MATTER OF an Application No. 6962320
for registration of a trade mark in class 20

trading as M/s Komal . Flat No. 1404, Tower 1, M3M Escala, Sector 70A, Gurgaon, Haryana - 122101, India..Applicants

AND

IN THE MATTER OF Opposition No.- 1396590
thereto by Vectus Polymers Private Limited

A-143, 12th Floor Sovereign Corporate Towers, Sector 136, Noida, Gautam Buddha Nagar, U.P-201304 .. Opponents

Hearing Date : 07/05/2026

Present : Present Ld. Nagma attorney for the applicant.
Present Ld. Poonam Attorney for the Opponent.

ORDER

Present Ld. Nagma attorney for the applicant.
Present Ld. Poonam Attorney for the Opponent.

This order disposes off the opposition no. 1396590 dated 06/08/2025 filed by the opponent Vectus Polymers Private Limited, address at A-143, 12th Floor Sovereign Corporate Towers, Sector 136, Noida, Gautam Buddha Nagar, UP-201304 against the application no. 6962320 filed on dated 17/04/2025 under class 20 in respect of FLOWER-STANDS, PLANT STANDS, METAL FURNITURE, FLOWER-STANDS [FURNITURE] INCLUDED IN CLASS 20. FOR THE APPLIED TRADE MARK URBANMALI by the applicant Komal address at Flat No. 1404, Tower 1, M3M Escala, Sector 70A, Gurgaon, Haryana - 122101, India that was advertised under section 20(1) of the trade marks act, 1999 in the trade marks journal no. 2208 on dated 12/05/2025.

A Video Conference Hearing for under Rule 115 of the Trade Marks Rules, 2017 was scheduled before me on dated 07/05/2026 to decide the Opposition No. 1396590 against the Registration of Application No. 6962320 to prevent a deceptively similar from being officially registered under section 18 of the Trade Marks Act, 1999.

On the date of hearing, Ld. Attorney for the Opponent submitted that :-

1. That Opponent is one of the leading polymer-based water storage solutions companies in India, primarily in the business of manufacturing water storage tanks. Opponent is among the few recognized brands which use all four types of techniques i.e. Extrusion moulding, Injection moulding, Blow moulding/ Roto moulding, to process the plastic.

2. That opponent has recently acquired the intellectual property rights over the mark MAALI/MAALI WITH DEVICE/LABEL for planters / gardening products from Wavin Industries Limited (formally known as Vectus Industries Limited), along with the goodwill. This transfer was formalized through an Intellectual Property Business Transfer Agreement executed between Vectus Polymers Private Limited and Wavin Industries Limited on 1st July 2024.

3. The Opponent Company operates across distinct product verticals, e.g. Water Storage Tanks, Sanitary Fittings, Household and Kitchen Utensils, combs and sponges, Gardening Products, Articles for Cleaning Purposes and Sanitary products etc. The Opponent Company manufactures gardening products under the brand name MAALI/ MAALI WITH DEVICE/LABEL. Needless to say, MAALI/ MAALI WITH DEVICE/LABEL brand is a valuable asset to the Opponent business given the immeasurable reputation and goodwill amongst the purchasing public.

4. With decades of experience in the Indian polymers market, the Opponent and its predecessor have witnessed strong fundamental growth in the polymers industry in India. This growth can be attributed to their adherence to best quality management practices, which have been further reinforced by an increase in sales due to their commitment to delivering the highest quality products and serving customers with utmost sincerity. The Opponent's exceptional competence, extraordinary team spirit, and visionary management are the key contributors to its success.

5. The Opponent through its predecessor has bonafidely adopted the trademark MAALI/ MAALI WITH DEVICE/LABEL thereof in the year 2020. The Opponent, wide range of polymer based products as under :-

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1. **WATER STORAGE TANKS** The Opponent is a top-tier water tank manufacture offering a complete water storage solution. With three decades of trust, superior quality, cutting-edge technology, and consumer-friendly designs, Opponent's plastic water storage tanks have a track record of excellence, making them the best water tank brand in business. The Opponent is a selected Super brand in the water storage tanks category, rightly the best water tank company in India today. **WATER TANKS** - All water tanks have been designed keeping in view the needs of all kinds of applications - domestic, commercial, and industrial. overhead water tank range has a large variety of tanks with multiple layers (3-5 layers), colours and sizes. Each water tank goes through strict quality control checks making each tank stronger and more rigid thus keeping its position as the best water tank brand. GANGA water tanks are available in different sizes starting from 200 Ltrs to 10,000 Ltrs.

2. **HOUSE HOLD ITEMS – PLASTIC BATHROOM ACCESSORIES AND AGRI PRODUCTS** Opponent manufactures a wide range of Agri products which can ease the load on manpower while sustaining a tough usage. Lightweight and durable, opponent Agri Products are available in various shapes and colours. Unbreakable and reliable, these products also offer a smooth finish. **KITCHEN PRODUCTS** Opponent kitchen products are specially designed to take care of customer storage requirements as they are nestable and stackable. All opponent products are designed and manufactured using 100% virgin raw material.

3. **BATHWARE** - Opponent has diversified its range of bathroom accessories by adding Cistern Tanks, Toilet Seat Covers, and PTMT taps to its platter. Launching premium-quality essentials for beautiful bath spaces.

4. **ROAD SAFETY PRODUCTS – TRAFFIC MANAGEMENT** - A number of barricades and traffic cones are manufactured from high-impact resistant, long-lasting colors that are extremely easy to set up and remove. The range consists of Fence with Stand, Vectus Barrier 6 Vertical, Barrier 2 Oval, Barrier Pyramid, Pyramid with Connector, Parking Cones, Parking Cones RM, Spring Post and Small Spring Post. **SAFETY ACCESSORIES** - The range of road safety accessories under the Opponent product range includes: Road Studs, Speed Breakers, Convex Mirrors, Wheel Stoppers, Road markers thermoplastic Paint, and so on. Since these safety accessories are made from robust quality material, they are perdurable and have the ability to withstand shocks.

5. **GARDENING PRODUCTS** - Opponent presents a wide range of Planters – made from the safest materials in impressive designs, varied shapes / sizes to support the mother that protects us all, Mother Nature.

6. The Opponent is the rightful proprietor of the trademark MAALI/ MAALI WITH DEVICE/LABEL particularly in class 1 and 21 in relation to Gardening Products and related goods. The details of the Opponent's relevant MAALI/ MAALI WITH DEVICE/LABEL trademark registrations are as follows:

Application no. 4415715 applied as a Proposed to be used under Class 21 for the trade mark MAALI AS A DEVICE/LABEL MARK for the products of GARDENING ARTICLES MADE OF PLASTIC; PLASTIC POTS FOR PLANTATION; PLASTIC LIDS FOR PLANT POTS; CERAMIC HOLLOWWARE; CERAMIC POTS; GLASS POTS, WATERING CANS, BUCKETS FOR CEMENT/SAND MIXING; WATERING DEVICES / SPRINKLING DEVICES; GRASS SPRINKLERS; SPRINKLERS FOR WATERING FLOWERS AND PLANTS INCLUDED IN CLASS 21.

Application No. 4396004 applied as a Proposed to be used under Class 21 for the Trade Marks MAALI AS A WORD MARK for the product of GARDENING ARTICLES MADE OF PLASTIC; PLASTIC POTS FOR PLANTATION; PLASTIC LIDS FOR PLANT POTS; CERAMIC HOLLOWWARE; CERAMIC POTS; GLASS POTS, WATERING CANS, BUCKETS FOR CEMENT/SAND MIXING; WATERING DEVICES / SPRINKLING DEVICES; GRASS SPRINKLERS; SPRINKLERS FOR WATERING FLOWERS AND PLANTS INCLUDED IN CLASS 21.

Application No. 4416342 applied as a Proposed to be used under Class 1 for the Trade Mark MAALI AS A DEVICE/LABEL MARK for the product of PEAT POTS, BIODEGRADABLE POTS, DRIED MOULDED POTS MADE UP OF PEAT, CEMENT AND/OR CERAMIC FOR HORTICULTURE PURPOSE ALL INCLUDED IN CLASS 1.

The said registrations are valid, renewed, and subsisting. The Opponent has the exclusive right to use the aforesaid trademarks in respect of the goods and services for which the same are registered.

7. The Opponent has a dedicated and interactive website <https://www.vectus.in/> which is accessible to people across India and abroad displaying a huge variety of MAALI on its products.

8. Apart from the Opponent's owned e-commerce website, Opponent's MAALI, branded products are also sold by the Opponent directly as well as through its dealers and retailers on various marketplaces such as www.amazon.in, mydukaan.io etc.



9. In view of the Opponents' proprietary rights in its trademarks MAALI/ MAALI WITH DEVICE/LABEL under law and the common statute, the Opponent has the exclusive right to use the said mark, no one can be permitted to use the same or any other deceptively similar trademark / logo in any manner whatsoever, without the authorization, permission and consent of the Opponent.

10. That by virtue of prior trademark registration, immense reputation, actual use and sales in India, spill-over of the said reputation into India, standing use, vast publicity and promotion, the trademark MAALI/ MAALI WITH DEVICE/LABEL of the Opponent have earned substantial goodwill and reputation and members of the trade and the public associate the said trademarks with the Opponent and no one else. The reputation and goodwill of the trademarks MAALI/ MAALI WITH DEVICE/LABEL extends throughout India. Needless to say, therefore, that the trademark MAALI/ MAALI WITH DEVICE/LABEL is valuable assets of the Opponent business for the immeasurable reputation and goodwill it enjoys amongst the purchasing public and for the brand equity it has in the market. The use of trade mark/s, identical with or similar to MAALI by any person other than the Opponent will give rise to confusion. In all likelihood, it will lead to deception amongst the purchasing public and the trade that such products are connected or otherwise related to the Opponent.

11. The Applicant is seeking registration for the impugned mark which is identical or deceptively similar to the Opponent's prior registered trade mark MAALI and MAALI WITH DEVICE/LABEL .

12. The goods / services for which the Applicant seeks to register the impugned mark URBANMAALI as described in its application are "Flower-stands, Plant stands, metal furniture, flower-stands [furniture] included in class 20". Such goods / services are identical to, substantially similar to or of the same general type of goods / services, as the goods / services for which the Opponent uses its well reputed mark MAALI/MAALI WITH DEVICE/LABEL. This coupled with the fact that the Applicant is seeking registration of its impugned mark URBANMAALI for goods that are identical to those in respect whereof the Opponent is using its famous and registered trade mark MAALI// MAALI WITH DEVICE/LABEL which would definitely indicate to the public that the impugned mark URBANMAALI is somehow connected with, or approved by or sponsored by the advance version of the Opponent good, which is obviously not the case. Thus, the adoption of the impugned mark URBANMAALI by the Applicant is in bad faith and with a motive to misappropriate and to ride upon the established goodwill of the Opponent. The Hon'ble Tribunal would appreciate that the possibility of confusion and deception arising amongst the public cannot be ruled out. Use of the impugned mark URBANMAALI would inevitably deceive or cause confusion in the minds of the public. This is an absolute ground for refusal of registration of a trade mark under Section 9(2)(a) of Trade Marks Act, 1999. Moreover, the impugned mark URBANMAALI cannot be registered by virtue of the prohibition contained in Section 11(1)(a) and (b) of Trade Marks Act, 1999 as the public would be confused into believing that there is an association of the Applicant's impugned mark URBANMAALI and products/ services with that of the Opponent. In addition to it, the impugned mark URBANMAALI cannot be registered by virtue of the prohibition contained in Section 11(10) of Trade Marks Act, 1999 which imposes a duty on the learned Registrar to protect a well-known trade mark.

13. On the information and belief, the Applicant's goods / services are offered for sale and advertised under the impugned mark through similar channels of trade and directed to the same type of consumers as the Opponent's goods/services. Further, the Opponent's prior registered mark MAALI/MAALI WITH DEVICE/LABEL, and the impugned mark URBANMAALI are phonetically similar/identity and confusing to each other, which will lead the average consumers to have an impression that the impugned mark URBANMAALI belongs to the Opponent. Having such a great degree of deceptive similarity and identification, the Applicant's mark is devoid of any distinctive character and is not capable of distinguishing the Applicant's goods from those of the Opponent. In addition to above, this is also an absolute ground for refusal of registration under Section 9(1)(a) of Trade Marks Act, 1999.

14. The Opponent's aforesaid trade mark has gained popularity and attained the status of a well- known mark as per the provisions of Article 6 bis of the Paris convention, Section 2(1)(zg) and Section 11(6) to 11(10) of the Indian Trade Marks Act, 1999. Under such circumstances, the use of the impugned mark URBANMAALI or any other identical / deceptively similar mark in respect of any goods / services by the Applicant or any other trader, who is not connected to or authorized by the Opponent is bound to cause confusion / deception in the minds of the members of the trade and public regarding the origin of the said goods/services and is also likely to mislead the public that the Applicant is associated with the Opponent. It is submitted that the possibility of confusion and /or deception arising among the members of the trade and the public is inevitable due to the following factors: -

i. The Opponent's trade mark MAALI/ MAALI WITH DEVICE/LABEL is an earlier trademark due to its prior use.

ii. The Opponent's trademark mark MAALI/MAALI WITH DEVICE/LABEL is inherently distinctive and has also acquired distinctiveness, and therefore use of any identical/deceptively similar mark would construe to be that of the Opponent.

iii. Since the impugned mark is identical to the Opponent's trademark MAALI/MAALI WITH DEVICE/LABEL to the extent of being identical, a person of average intelligence and imperfect recollection is bound to be confused and would be misled into believing that the goods covered under the impugned mark are being offered by the Opponent.

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15. The Opponent submits that the mark MAALI/MAALI WITH DEVICE/LABEL is a prior registered mark around the country in respect of the Opponent's goods/services. The Applicant cannot be said to have proper cause for registration of the impugned mark or its use. The Applicant's impugned mark is certainly not distinctive enough to merit registration. In fact, the registration and use of the impugned mark would take unfair advantage of the Opponent's reputation and goodwill and shall dilute and be detrimental to the reputation and goodwill of the Opponent. Moreover, the registration and use of the impugned mark URBANMAALI shall give rise to the unfair trade practices. Therefore, the registration of the impugned mark is prohibited under the provisions of the Trademark Act, 1999 and further, we request the learned Registrar to exercise his power under Section 11(10) of the Trade Marks Act, 1999 and disallow the registration of the impugned mark / application.

16. The impugned mark cannot be granted protection in a court of law in India as the use of the impugned mark amounts to passing off of the goods of the Applicant as that of the Opponent and hence is contrary to the provisions of Section 11(3) of the Trade Marks Act, 1999. The impugned mark of the Applicant is virtually identical to the trade mark MAALI/MAALI WITH DEVICE/LABEL of the Opponent. The Applicant has obviously adopted the identical mark or deceptively similar mark to create confusion amongst the trade and public associated and derive illicit gain as a result thereof. The conduct of the Applicant seems to be dishonest and mala fide with view to exploit and take an unfair advantage of the enviable goodwill and reputation of the Opponent in India and internationally.

17. The Applicant is not entitled to the benefit of the provision stipulated in Section 11(4) of the Act, as the Opponent has not consented to the adoption of the impugned mark by the Applicant.

18. It is respectfully submitted that the unparalleled success established by the Opponent's trademark has been well within the knowledge of the Applicant. Therefore, the filing of the impugned application for the identical mark by the Applicant is not a matter of coincidence but an extremely calculated and blatant act actuated with bad faith whereby the Applicant has sought to encash upon the unsurpassed goodwill enjoyed by the Opponent's prior registered mark MAALI/MAALI WITH DEVICE/LABEL. As the Applicant's adoption of the impugned mark is dishonest, they cannot claim thereof within the meaning of Section 18(1) of the Trade Marks Act, 1999.

19. The Opponent avers that the Applicant's use and registration of the impugned mark URBANMAALI would damage the Opponent's vested rights for the following reasons: -

- a) The registration of the impugned mark URBANMAALI would give the Applicant the unqualified right to pass off its goods as those of the Opponent;
- b) The Applicant's mark is identical to the Opponent's prior registered mark MAALI/MAALI WITH DEVICE/LABEL that it is likely to cause confusion in the minds of the public and / or deceive consumers, who on seeing MAALI/ MAALI WITH DEVICE/LABEL used in connection with Applicant's goods would believe that such mark and such goods, have some connection or association with or are sponsored or approved by the Opponent;
- c) The Applicant's use of the mark constitutes wrongful appropriation of the Opponent's valuable goodwill associated with its prior registered mark MAALI/ MAALI WITH DEVICE/LABEL ;
- d) The use of the mark by the Applicant for the goods/services set forth in its application for registration threatens the Opponent's right to expand the scope of use of its prior registered mark MAALI/ MAALI WITH DEVICE/LABEL to related, analogous or equivalent goods; and
- e) Any use of the impugned mark would amount to infringement and be liable to be punished under the law of infringement.

20. The Opponent submits that the very adoption of the impugned mark is ab initio, mala fide and dishonest, and only with a view to ride upon the immense reputation of the Opponent's MAALI/MAALI WITH DEVICE/LABEL.

21. Further, it is pertinent to mention that the Opponent adopted the trade mark MAALI/ MAALI WITH DEVICE/LABEL much before the application for the impugned mark was filed. The adoption of the impugned mark being clearly dishonest and subsequent and hence the benefit of Section 12 of the Trade Marks Act, 1999 cannot be accorded to the Applicant.

22. For the reasons stated above it is our humble submission that the registration of the impugned application would be contrary to the provisions of Section 9(1)(a), 9(2)(a), 11(1)(a) and (b), 11(3), 11(4), 11(10), 12, 18(1), and 102 of the Trade Marks Act, 1999 and the Hon'ble Tribunal ought to refuse registration of the impugned mark in exercise of its discretion under Section 18(4) of the Trade Marks Act, 1999.

Opponent relied on the following judgements: -



KARAN RATHORE Versus REGISTRAR OF TRADE MARKS & ANR DELHI HIGH COURT Under Section 29(2)(b) of the Trade Marks Act, 1999, using an identical or deceptively similar mark for complementary goods can amount to infringement if it creates a likelihood of confusion among the public. Because both parties operate within the broader automobile accessories sector and sell to the same consumer base, the Court determined there was a high likelihood of deception and consumer confusion. Appellant is selling motor parts under trademark 'JBR' and Respondent is selling vehicle covers (car, bike, and vehicle covers) under trademark 'JBR' under Class 12. Both are using identical trademark 'JBR'.

Assam Roofing Ltd. v. JSB Cement LLP is a landmark Calcutta High Court intellectual property case concerning trademark infringement and passing off. The court ruled in favor of Assam Roofing, granting a perpetual injunction against JSB Cement LLP from using the "Rhino" trademark. PLAINTIFF SELLING corrugated sheets, asbestos, and roofing accessories. The High Court determined that even if the goods are distinct, both are used for building purposes, sold through the same trade channels, and purchased by the same class of consumers.

On the date of hearing, Ld. Attorney for the Applicant submitted that :-

1. HONEST ADOPTION: It is submitted that the Applicant, in an honest and bona fide manner, has conceived, created, and adopted the trademark URBANMAALI in respect of the goods under "Flower-stands, Plant stands, metal furniture, flower-stands [furniture] included in class 20". The mark of the Applicant combines the modern, progressive expression "URBAN" with the vernacular word "MAALI", thereby coining a unique and creative composite mark as 'URBANMAALI'. The Applicant has conceived the mark 'URBANMAALI' as a reflection of its vision of modern, eco-conscious living in urban spaces. The term "URBAN" signifies a contemporary, city-based lifestyle, while "MAALI" invokes the nurturing and creative spirit of gardening. The combination results in a coined expression as 'URBANMAALI'.

2. USE OF THE MARK: it is submitted that the applicant's mark has been in long, continuous, and uninterrupted use since its inception. The Applicant has established a dedicated website under www.urbanmaali.in for the advertisement and promotion of its goods, which are also readily available on the well-known e-commerce platform - Amazon. By virtue of such consistent use, the public in India categorically associates the mark with the Applicant and the Applicant alone, without any likelihood of confusion. We have already submitted the user documents of the mark as Exhibit - A to C in Rule 46(1).

3. NO MONOPOLY OVER ALL CLASSES: it is submitted that the opponent is engaged in the business of peat pots, biodegradable pots, dried moulded pots made up of peat, cement and/or ceramic for horticulture purpose all included in class 1 and gardening articles made of plastic; plastic pots for plantation; plastic lids for plant pots; ceramic hollowware; ceramic pots; glass pots, watering cans, buckets for cement/sand mixing; watering devices / sprinkling devices; grass sprinklers; sprinklers for watering flowers and plants included in class 21 under the mark MAALIL whereas the applicant is engaged in the business of "flower-stands, plant stands, metal furniture, flower-stands [furniture] included in class 20" under the mark URBANMAALI. It is respectfully submitted that the Opponent cannot claim monopoly over all classes and goods, particularly when no application or registration exists in Class 20. The Opponent has failed to establish any association with Class 20 or its goods, and the Applicant's goods and classes are distinct. The marks differ in visual appearance, relate to different products, and fall under different classes. Accordingly, there is no likelihood that an average consumer of ordinary intelligence would associate the Applicant's goods with those of the Opponent. In this regard we would like to submit the judgment of M/S Nandhini Deluxe Vs M/S. Karnataka Cooperative Milk Producers Federation Ltd. Civil Appeal Nos. 2937-2942 OF 2018 where the Hon'ble Supreme Court held that "the proprietor of a trade mark cannot enjoy monopoly over the entire class of goods and, particularly, when he is not using the said trade mark in respect of certain goods falling under the same class."

4. CONTRADICT STATEMENTS BY THE OPPONENT: it is submitted that the opponent has taken contradictory positions, having earlier admitted in application no. 4415715 (Class 21) that its mark "MAALI/" is distinct from the cited mark "MALI," yet now alleging deceptive similarity against the Applicant's bona fide trademark. Such inconsistent assertions reveal mala fide intent. The Opponent has neither registration nor evidence of use of the mark "MAALI" in Class 20, whereas the Applicant has legitimately applied therein. In the absence of valid rights or proof of continuous use under Class 20, the present Opposition is devoid of merit and liable to dismissal, with costs in favor of the Applicant. The Applicant has already submitted the examination report of the Opponent's said application along with a reply to examination report evidencing the contradict statements by the Opponent marked as Exhibit-E in Rule 46(1).

5. NATURE OF THE TERM "MAALI/MALI": it is respectfully submitted that the term "MAALI" derives from Hindi and Sanskrit, signifying a gardener, and is commonly used in occupational and cultural contexts, including as a surname for communities engaged in horticulture and floriculture. Owing to its widespread usage, the word is firmly embedded in the common vocabulary of society. A basic trademark register search further reveals multiple third-party applications and registrations incorporating the "MAALI/MALI" formative across various classes, evidencing its generic and non-exclusive character. We have already submitted the Public Search Report showcasing the registrations of other parties for 'MAALI/MALI' formative marks in different classes as Exhibit-F in Rule 46(1).

6. DIFFERENCE BETWEEN THE MARKS: it is respectfully submitted that the applicant's mark being a coined and distinctive composite expression, is visually, phonetically, structurally, and conceptually distinct from the opponent's mark.



The Applicant's unique trade dress, stylisation, and consistent commercial use, including on its Amazon storefront, reinforce its individuality and eliminate any likelihood of confusion. The relevant consumers, comprising informed and brand-conscious buyers of plant stands, flower stands, and furniture, are capable of distinguishing the Applicant's goods. As a settled principle of trademark law, marks must be compared as a whole and not dissected into parts. Accordingly, the Applicant's mark and the Opponent's mark are entirely different, with no similarity in visual representation or commercial association. We already submitted a detailed submissions along with relevant judgments in support of the aforesaid from para 15 to 19 in the counter statement. From the above submissions, we most respectfully prayed that the Learned Registrar be pleased to take these submissions on record and grant registration of the Applicant's mark.

7. NO SIMILAR MARK WAS FOUND IN THE EXAMINATION REPORT: It is pertinent to highlight that no similar mark and even the Opponent's mark was cited in the examination report of the subject application, reinforcing the conclusion that the Applicant's trademark URBANMAALI, bears no similarity to, nor causes any likelihood of confusion with, the Opponent's alleged mark. The absence of any citation of the Opponent's mark in the report substantiates the fact that the Applicant's trademark URBANMAALI, possesses an independent identity in trade and commerce, exclusively associated with the Applicant.

8. NO SINGLE REGISTRATION/APPLICATION OF THE OPPONENT IN CLASS 20: It is submitted that the Opponent has failed to provide a single registration of the mark "MAALI/MAALI WITH DEVICE/LABEL" in respect of "Flower stands, Plant stands, metal furniture, flower-stands [furniture] included in class 20". The Opponent has provided the alleged registrations in its Notice of Opposition that is for class 1 and 21 whereas the Applicant has applied for the mark in class 20. Therefore, the Opponent cannot claim monopoly over all classes and goods specially when the Opponent has not applied for the same goods in the same class. It is submitted that in the present case, there is not only visual appearance of the two marks is different, even both relate to different products and different class, it is difficult to imagine that an average man of an ordinary intelligence would associate the goods of the Applicant as that of the Opponent. In this regard we would like to submit the judgment of M/S Nandhini Deluxe Vs M/S. Karnataka Co-Operative Milk Producers Federation Ltd. where the court held that "the proprietor of a trade mark cannot enjoy monopoly over the entire class of goods and, particularly, when he is not using the said trade mark in respect of certain goods falling under the same class."

9. It is submitted by the applicant that on a basic trademark register search it was found that there are various third-party applications as well as registrations for the "MAALI/MALI" formative marks in different classes. A non-exhaustive list of "MAALI/MALI" formative marks registered and subsisting in the trademark register is produced below:

Application No.	Trademark	Class	Status
5960367	MAALI UNCLE	1	Registered
1759009	MALI AGRI-TECH	1	Registered
2860994	MAALI/MAALI	3	Registered
2627035	MAALI	5	Registered
5849673	BIOTECH MAALI	8	Registered
5097436	MALI ENTERPRISES	20	Registered
2110085	MALI	21	Registered
2204129	MAALI	25	Registered
2896507	BAGH MAALI	30	Registered
4337678	BizMaali	42	Registered
5903419	AL MAALI INTERNATIONAL	43	Registered

The above list demonstrated that the other trademarks were also approved and registered even after the opponent's trademarks had been filed. This signifies that the Applicant's trademark should be registered, as evidenced by the subsequent approvals of similar trademarks.

10. In support of the principle of 'Mark as a whole' the applicant has relied on the following cases :-

A. In the case of Corn Products Refining Co. vs. Shangrila Food Products Ltd. The Supreme Court held that "the question whether the two marks are likely to give rise to confusion or not is a question of first impression and that it was well recognized that in deciding a question of similarity between two marks, the marks have to be considered as a whole". The Trade Marks Act, 1999 clearly states that for determining a likelihood of confusion, finding must be based on the overall impression provided by the respective marks and not on any one of the individual components of each mark and any likelihood of confusion is negated on overall comparison of the respective marks.

B. As laid down by the Bombay High Court in F. Hoffman-La Roche & Co. Limited v. Sanitex Chemical Industries, (1965) 67 BOMLR 729, the marks must be compared as a whole. The true test is whether a totality (visual and phonetic) in a proposed trade mark is such that it is likely to cause deception or confusion or mistake in the minds of persons accustomed to the existing trademarks.

C. The Hon'ble Supreme Court in a number of cases held that, "The trade mark is the whole thing- the whole word has to be considered. (Amritdhara Pharmacy V. SatyaDeo Gupta (AIR 1963 SCV 449).

Amrinder Kumar

D. Again in *Kaviraj Pandit Durga Dutt Sharma v. Navratna Pharmaceutical Laboratories* AIR 1965 SC 980, it was held that the ultimate analysis should be done considering the mark as a whole.

E. The Judgment in *Cadila Healthcare Limited vs. Cadila Pharmaceutical Limited* (AIR 2001) SC 1952 is the well-settled rules for comparison of trademarks are: • The trademark must be considered as a whole. It is not right to take a part of the trademark and compare it with part of the other trademark. • No meticulous or letter by letter comparison is required. Also, side by side comparison is not the correct test. • The comparison should be made from the point of view of a person of average intelligence and of imperfect recollection. • The overall structural, visual & phonetic similarity and similarity of the idea in the two marks and the fact as to whether there is a reasonable likelihood to cause confusion should be taken into account.

From the above, it is very clear that the Applicant's trademark is highly distinctive from any alleged trademark of the Opponent. The above principle has been judicially accepted and the Draft Manual for Trade Marks Practice Procedure issued by the Trade Marks Registry mentions about the same at Page Number 45 at official website of the trademark office.

Applicant relied on the following judgements: -

In *Vishnudas Trading v. The Vazir Sultan Tobacco Co. Ltd.* (1996), the Supreme Court of India ruled that a trademark proprietor cannot claim a perpetual monopoly over an entire statutory class of goods (like "manufactured tobacco") if they only intend to manufacture and sell a specific product (such as cigarettes). Further held that classifying goods is primarily an administrative tool and should not be weaponized to monopolize a massive and varied range of unrelated commerce. Exclusion of different species which may come under the heading of a genus comprising various specifics even when a trader or manufacturer having obtained registration under the heading of genus, in fact, is manufacturing only one of the species thereby pre-empting or excluding others to get registration in respect of different species other than the species which is being manufactured by the trader or manufacturer, will be unjust and unfair and against the principles by which registration of trade mark is made. This proposition would be particularly valid where (a) the registration of the registered trade mark is not a defensive registration and the brand name of the goods under registration is not an "invented word" and the device, logo or symbol associated with that name and depicting the product is not an invented one and (b) even though the registered trade mark holder obtained the registration for the entire class in which his product falls, but he has neither any bonafide intention to use nor made any bonafide use of the registered trade mark in relation to any other goods falling within that class, whether within the stipulated statutory periods or beyond them, governing rectification of the Register and imposition of limitations on the ground of non-use concerning registered trade marks. The Hon'ble Court held that registering a trademark for an entire genus or broad category (like "manufactured tobacco") should not give the registrant a monopoly over every single sub-product in that class, especially if they never produced those other items.

I have heard the submission of both the Ld. Counsels. I have also gone through the details of subject application/Opposition as well as documents. From the above submission of the Ld. Counsel for the Opponent it is crystal clear that the Opponent has been dealing in different nature of goods, different consumer, different trade channel. It is further clear from the above discussion that the Opponent has failed to establish prior use with cogent and credible evidence and Prove any reputation or goodwill in the field of Flower-stands, Plant stands, metal furniture, flower-stands [furniture] included in class 20 and Demonstrate any likelihood of confusion or deception. Opponent has not filed any user documents in order to establish that they are in the trade of Flower-stands, Plant stands, metal furniture, flower-stands [furniture] included in class 20. However, Applicant has filed invoices since 2024 in order to prove continues and extensive use as the user claimed in the trade mark application.

Evidence by way of Affidavit in support of opposition filed by Shri Mahipal Singh, Director and Company Secretary of Vectus Polymers Private Limited, having address at A-143, 12th Floor, Sovereign Corporate Towers, Sector 136, Noida, Gautam Buddha Nagar, Uttar Pradesh — 201304, wherein it is deposed by the deponent in Para no. 3 that Opponent is one of the leading polymer-based water storage solutions companies in India, primarily in the business of manufacturing Water Storage Tanks, Sanitary Fittings, Household and Kitchen Utensils, combs and sponges, planters and Gardening Products, Articles for Cleaning Purposes and Sanitary products. Opponent is among the few recognized brands which use all four types of techniques i.e. Extrusion moulding, Injection moulding, Blow moulding/ Roto moulding, to process the plastic. But Not A Single User Documents Filed By The Opponent In Order To Prove The Prior User In Respect Of Flower-stands, Plant stands, metal furniture, flower-stands [furniture] included in class 20.

Opponent further submitted that dominant and essential part of the Opponent mark i.e. MAALI/MAALI WITH DEVICE/LABEL has been copied by the applicant in the present application i.e. URBANMALI. Attorney for the applicant submitted that it is well settled law that the mark must be compared as a whole. Attorney for the applicant further submitted that *Under Indian trademark law, generic and descriptive terms like "KISAN" and "MALI" cannot be monopolized. Because they describe the very essence of the agricultural and gardening fields, other genuine businesses can use them, unless a brand proves the term has acquired a unique "secondary meaning. Under the Trade Marks Act, 1999, intellectual property registries classify trademarks into five categories. "KISAN" (meaning farmer) and "MALI" (meaning gardener) fall into the descriptive/generic category for their respective industries because competitors need these words to describe their own products accurately. A person whose job is growing flowers in a garden is call a Gardener. Mali can be used as both a surname and a*



community/caste name hence no monopoly can be granted to a single person. It is well settled law that individual common or generic word may be descriptive but their unique combination creates a unique appearance and identity as held in the case of Rajni Gupta v. Registrar of Trade Marks, by Hon'ble Delhi High Court, Umang Dairies Limited V/s Registrar of Trade Marks, Abu Dhabi Global Market Vs. Registrar of Trade Marks, Navaid Khan V/s Registrar of Trade Marks and Hon'ble Supreme Court in the Case of Registrar of Trade Marks V/s Ashok Chandra Rakhit Limited, where the Hon'ble Court held that when a trademark consists of multiple elements, its distinctiveness must be determined by evaluating it as a whole rather than in fragmented parts.

Opponent Relied On The Judgement Of Karan Rathore Versus Registrar Of Trade Marks And Assam Roofing Ltd. V. Jsb Cement LLP. In both cases relied by the attorney for the opponent does not apply in the present case as the facts and circumstances are different. Both are dealing under the same trade mark as well as same classification of goods as per international nice classification of goods and services. But in the present application, both are dealing in different nature of class of goods, purpose are different one is for decorative item falls under the category of furniture and other is for pots for growing plants fall under the gardening products. Opponent is dealing in gardening articles made of plastic; plastic pots for plantation; plastic lids for plant pots; ceramic hollowware; ceramic pots; glass pots, watering cans, buckets for cement/sand mixing; watering devices / sprinkling devices; grass sprinklers; sprinklers for watering flowers and plants included in class 21 and also peat pots, biodegradable pots, dried moulded pots made up of peat, cement and/or ceramic for horticulture purpose all included in class 1. However, applicant is dealing in flower-stands, plant stands, metal furniture, flower-stands [furniture] included in class 20. furthermore, a flower stand (or plant stand) falls under the broad genus of furniture. specifically, it is classified as accent furniture, display furniture, or garden furniture because it is a movable object designed to elevate and display decorative items.

In the case of N.Ranga Rao & Sons v. Shree Balaji Associates and Ors. reported in 2018 (75) PTC 135 (Mad) wherein The Hon'ble Madras High Court ruled that common, uninvented marks (like the word "Cycle" or a cycle device) cannot be monopolized across entirely unrelated goods without actual, bona fide use. The petitioner company obtained registration for their mark under Trade and Merchandise Marks Act, 1958. Section 47 of the Trade and Merchandise Marks Act, 1958 which deals with defensive registration of trademarks, pertained only to invented word that has become well known. This specific provision was abolished when the 1999 Act came into force. The petitioner failed to prove that "CYCLE BRAND" satisfies both the conditions. Neither the word "Cycle" or "Brand" is invented word and therefore, did not qualify for defensive registration. In the case of Nandhini Deluxe v. Karnataka Cooperative Milk Producers Federation Ltd. 2018, the Hon'ble Supreme Court of India ruled that phonetic similarity alone does not constitute trademark infringement if the goods, logos, and target markets are entirely different. In Registrar of Trade Marks Vs. Ashok Chandra Rakhit, AIR 1955 SC 558 & Bhole Baba Milk Food Industries Ltd Vs. Parul Food Specialities Pvt Ltd, CDJ 2011 DHC 1174 And Vishnudas Trading V/s Vazir Sulthan Tobacco Company Limited, it was held that non-user of trade mark should not be allowed to enjoy monopoly otherwise he will indulge in mischief of trafficking in trademark and prevent all bonafide user of such common word. Supreme Court judgment in Skyline Education Institute Vs. S.L. Vaswani & another, the Court held that unless the word is an invented word coined by a person out of his own effort and thought process, he cannot prevent and exclude others from using the generic and common word by holding it within his folds by not putting it to use for a long time from the date of registration of the said trademark.

In the case of Greyswift Private Limited Through Mr. Shivam Singla Vs The Registrar Of Trade Marks wherein it was held that Combination of Two generic words can make arbitrary Trademark (Paragraph no. 17 & 19). Jain Shikanji Private Limited v. Satish Kumar Jain, 2023 SCC OnLine Del 1241 mentioned in C.A.(COMM.IPD-TM) 57/2024C.A.(Comm.ipdtm) 58/2024 Haveli Restaurant And Resorts Limited vs The Registrar Of Trade Marks and anr wherein it was held that the combination of two generic words can make arbitrary trademark- the words 'jain' and 'shikanji' separately are commonly used words but once joined / used together 'singularly' are distinctive and unique, capable of being a mark in itself (paragraph no.40). C.A. (COMM.IPD-TM) 57/2024C.A.(Comm.ipdtm) 58/2024 Haveli Restaurant And Resorts Limited vs The Registrar Of Trade Marks and anr. Wherein it was held that that Mark must be considered as whole and no one can claim monopoly over the generic word (MAALI is generic word). Hon'ble Court further held that the Opponent marks has not acquired secondary significance especially in relation to relevant products. In the case of Rich Products Corporation v. Indo-Nippon Foods Limited the Hon'ble Delhi High Court ruled that trademarks incorporating generic or descriptive terms cannot be exclusively monopolized unless they have unequivocally acquired a secondary meaning in the minds of consumers.

The Hon'ble Delhi High Court held that words used in everyday language, such as "Yatra," cannot be monopolized. Similarly, the Madras High Court ruled in a noodle dispute that terms like "Magic" and "Masala" are common to trade, preventing any single company from claiming exclusive rights to them. In the present application "MAALI" (surname and community/caste name) is a generic/descriptive term in the field of gardening, hence no one can claim exclusive rights to the word itself in its literal sense.

As per the above mentioned discuss facts it is clear that the applied mark as a whole is distinctive. Evidence placed on record indicates that the term MAALI is a dictionary word commonly understood to mean a Gardener and it used by various trades in the market place. The existence of multiple third party registration and applications incorporating the term MAALI reduces the degree of exclusivity that can be claimed in respect of expression.

The allegation of dishonest adoption is also not substantiated by any cogent evidence. Mere adoption of a mark containing a common dictionary word can not by itself lead to an inference of bad faith. The Applicant has provided a plausible explanation regarding conception and adoption of the composite mark URBANMAALI . No material has been placed on

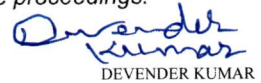
Quander Kumar

record to establish an intention to trade upon the goodwill of the Opponent. Even assuming that the Opponent enjoys goodwill and reputation in the mark MAALI in relation to its goods, such reputation can not be extended to prevent registration of every mark containing the expression MAALI, particularly where the mark sought to be registered is a composite mark which creates a distinct overall commercial impression.

Moreover the applied goods of the applicant marks are totally different/dissimilar with the Opponent goods and while comparing the applied mark with the Opponent mark it will not cause confusion to the public. Furthermore the opponent fail to prove the prior user and goodwill and dealing in the product of FLOWER-STANDS, PLANT STANDS, METAL FURNITURE, FLOWER-STANDS [FURNITURE] included in class 20 by way of cogent and clear evidence to support his case.

All these above mentioned facts and circumstances as well as precedents are led to the conclusion that the Applicant is entitled to get Registration under section 18(1) of the Trade Marks Act, 1999. On the strength of the above discussion and in view of the above facts and circumstances, it is hereby Ordered that the Application No. 6962320 in Class 20 in respect of Flower-stands, Plant stands, metal furniture, flower-stands [furniture] included in class 20 shall proceed for the Registration and consequently the Opposition No. 1396590 is dismissed. Each party bear their own costs of these proceedings.

Signed and Sealed at Delhi dated this 11 June, 2026


DEVENDER KUMAR

ASSTT. REGISTRAR OF TRADE MARKS

No.TOP/

Dated:11/06/2026

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