IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case No: CT009JUN2017

In the matter between:

DANGOTE CEMENT SOUTH AFRICA (PTY) LTD APPLICANT

And

DANGOTE GROUP(2016/279226/07) RESPONDENT

Presiding Member of the Tribunal: Mohamed Alli Chicktay

Date of Decision: 26TH October 2017

DEFAULT DECISION

Keyword: Jurisdiction

Presiding Member of the Tribunal: Mohamed Alli Chicktay

Date of Decision: 26th October 2017

INTRODUCTION

[1] This is an application for the investigation and deregistration of the name “Dangote Group”.

BACKGROUND

[2] The Applicant is Dangote Cement South Africa (OTY) Ltd, a South African company incorporated and registered in terms of the Laws of the Republic of South Africa with registration number 2004?034277?07

[3] The Respondent is Dangote Group (Pty) Ltd a South African company incorporated and registered in terms of the Laws of the Republic of South Africa with registration number 2016/279226/07

ISSUE IN DISPUTE

[4] The Applicant submitted that on 23rd March 2017 she received an email from attorneys Cliff Decker informing her that Shaheer Noormohamed had incorporated companies similar to Dangote Cement South Africa (Pty) Ltd. This name is similar to the applicants name and had been reserved in 2016 without the applicant’s permission.

[5] The applicant contended that CIPC would have rejected the respondents name since it was similar to that of the applicant

[6] The applicant requested that the companies tribunal

a. Investigate the matter to determine if fraud was committed to register the name
b. Enquire how CIPC allowed the respondent’s name to be reserved without the applicants permission
c. Deregister the name Dangote Group

APPLICABLE LEGISLATION

[7] The regulation of disputes concerning the reservation or registration of company names and the jurisdiction of the Tribunal is set out in Section

160 of the Act. Section 160 (1) states that a person to whom a notice is delivered in terms of section 12(3) or section14 (3) or any other person with an interest in the name of a company, may apply to the Companies Tribunal in the prescribed manner and form for a determination whether the name satisfies the requirements of section 11. Section 11(2) of the Act states specifically that he name of the company must not be confusingly similar to a name, trademark, mark, word or expression contemplated in paragraph (a)(to another company)

EVALUATION

[8] The Tribunal does not have the power to investigate how the respondent's name was reserved.

[9] The tribunal also cannot enquire from CIPC directly as to how the Respondents name was reserved by them.

[10] The Tribunal does not have the authority to register a name. The applicant should have made an application in terms of section 160 read with section 11(2) of the Act setting out why the Tribunal should call on the Respondent to change its name.

FINDINGS

[11] I find that the Tribunal does not have any jurisdiction to deregister a company, nor to inquire or to investigate how CIPC perform its functions.

ORDER

[12] In light of the above I find that the matter be dismissed

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MOHAMED ALLI CHICKTAY

COMPANIES TRIBUNAL: MEMBER