ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

SUIT No. 636 / 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

Plaintiff:	**Evan & Mayer International, through Mr. Ovais Ali Shah Advocate.**
Def. No.1, 2 & 4:	**The Stillman Company (Private) Limited & Others through Mr. Abdul Sattar Pirzada and Mr. Rana Ikramullah Advocates.**
Def. No.3:	**Sheikh Muhammad Shahid through Mr. Waqar Ahmed Advocate on behalf of Mohsin Tayyabally & Co. Advocates.**
Dates of hearing:	**26th Oct:, 21st & 29th Nov: and 14th Dec: 2017**
Date of Order:	**09.02.2018**

1) For hearing of CMA No. 4176/2016.
2) For hearing of CMA No. 9641/2016.
3) For orders on CMA No. 10194/2016.
4) For orders on CMA No. 13586/2016.
5) For hearing of CMA No. 14145/2016.

O R D E R

1. CMA No. 4176/2016

Pursuant to order dated 22.08.2017 passed in High Court Appeal No.375 of 2016 and other connected matters, whereby, certain directions were given to this Court **CMA No. 4176/2016** (injunction application) has been heard first and is being decided through this order.

This is a Suit for Declaration and Permanent Injunction whereby, a declaration is sought that termination letter dated 28.1.2016 is unwarranted, illegal, uncalled for and of no legal effect and a decree for permanent injunction that Plaintiff is entitled to manufacture and Sell products under the Trademark **"STILL MAN'S"** pursuant to agreement dated 18.11.2015 ("**Second Agreement**") which is valid for five years till 2020. Through listed application the Plaintiff seeks a restraining order to the same effect.

The Plaintiff is a registered partnership concern and during the course of its business entered into a license agreement with Defendant

No. 1 for manufacturing and selling the product(s) of Defendant No.1 under the Trademark **"STILL MAN'S"** in the international market. Such agreement was executed on 29.2.2012 ("**First Agreement**") valid for a period of five years. Thereafter, according to the plaintiff's case second agreement was entered into, whereby, the relationship was further extended permitting the Plaintiff to manufacture and Sell the said products in the local market as well. The said agreement is also for a period of five years. It appears that thereafter, on 28.1.2016 Defendant No.1 issued a notice for termination of first agreement, which has given rise and cause of action to file instant Suit.

Learned Counsel for the Plaintiff has contended that the second agreement has novated and superseded the first agreement; therefore, the impugned notice of termination is illegal, unlawful and of no legal effect; that since the second agreement is in field, therefore, the termination notice which itself seeks cancellation of the first agreement cannot be made applicable to the second agreement; that the relationship is now to be governed by the second agreement wherein, in Clause 3 the Plaintiff has been authorized to market and Sell the product in question locally as well as internationally; that the second agreement has been executed by an authorized Director of the Company / Defendant No. 1 and therefore, the other Directors are bound to follow it as it is an agreement by the Company; that the second agreement is valid till 2020 and therefore, the same cannot be terminated; that in terms of clause 19(a) of the second agreement, it has been agreed upon that this agreement constitutes the entire understanding of the patties and revokes and precedes all prior agreements; that the trademark of the Defendant Company can only be used by the Plaintiff to the exclusion of anyone else including Defendant No.1, and therefore, any use of the said trademark even by Defendant No. 1 falls within infringement under the Trademark Ordinance 2001; that while interpreting the agreement between the parties the preamble of the Contract Act 1872, must be looked into and so also the case(s) of foreign jurisdiction which have dealt with similar situations; that in terms of Clause 85 of the Memorandum and Articles of Association of the Company / Defendant No.1, an individual Director is authorized to enter into a Contract; that in any case, and without prejudice, the entitlement of the plaintiff pursuant to the second agreement still subsists, which permits manufacture and sale of the product(s) in question locally as well as internationally, and therefore, the plaintiff is entitled for an injunctive relief as prayed for. In support he has relied upon ***Hankey v. Clavering ALL ER 1942 (311), Decro-Wall International SA v. Practitioners in Marketing Ltd [1971] 2 All ER-216, Friends Life Ltd v. Siemens Hearing Instruments Ltd [2015] 1 All ER (Comm)-1068, Syed Ali Asghar Shah V. Pakistan International Airline Corporation and others (2016 C L C 189), Tahir Zaman V. Jin Wei (M) SDN BHD and others (2004 C L D 603), Industrija Masina I Traktora v. Bank of Oman Ltd and 2 others (1992 M L D 2245), Banque Indosuez v. Banking Tribunal for Sindh & Balochistan and others (1994 C L C 2272), Mrs. Mussarat Shaukat Ali v. Mrs. Safia Khatoon and others (1994 S C M R 2189), Abdul Qayoom v. Ziaul Haq and another (P L D 1962 (W.P.) Karachi 334).***

On the other hand, learned Counsel for the Defendants No. 1, 2 and 4 has contended that firstly, the second agreement is forged and fabricated as Defendant No.1 never entered into any such agreement, whereas, without prejudice, both agreements are independent in nature and there is no novation of the Contract as contended inasmuch as the second agreement has not been executed by the Company but by one of the Directors of the Company with the plaintiff firm which is owned by his wife and son(s); that in terms of Section 21(d) of the Specific Relief Act no injunction in this matter can be granted or sustained and the only remedy is damages; that during the pendency of these proceedings the first agreement already stands expired whereas, the second agreement is not an agreement by the Company, therefore, the Plaintiff has no case; that even otherwise, the agreement could be terminated without notice and reasons; that in terms of the Article of Association of the Company one single Director was not authorized to sign any such agreement which even otherwise, was being entered into with a partnership concern owned by his family to the prejudice and detrimental interests of the Company; that the Company's Seal has been used against the wishes of the other Directors; that in terms of Section 212 of the Companies Ordinance, 1984 the Director had no authority to enter into any such agreement; that in terms of Section 70(3) of the Trademark Ordinance, 2001 no registered assignment was given to the Plaintiff Company and therefore, the allegation of infringement is not sustainable; that the agreement in question was never registered as required under the Trademark Ordinance, 2001. In support he has relied upon ***Messrs Business Computing International (Pvt.) Ltd. v. IBM World Trade Corporation (1997 C L C 1903), Bank Al-Falah Limited v. Neu Multiplex and Entertainment Square Company (Pvt.) Ltd. (2015 Y L R 2141), Hameedullah and 9 others v. Headmistress, Government Girls School, Chokara, District Karak and 5 others (1997 S C M R 855), Roomi Enterprises (Pvt.) Ltd. v. Stafford Miller Ltd. (2005 C L D 1805), Messrs Quality Builders Ltd. Karachi v. Messrs J. P. Brockhoven V. V. Dredging Contractors, Karachi and 9 others (P L D 1979 Karachi 668), Messrs Universal Business Equipment (Pvt.) Ltd. v. Messrs Kokusai Commerce Inc. and others (1995 M L D 384), Royal Foreign Currency v. The Civil Aviation Authority and another (1998 C L C 374), Messrs Pakistan State Oil Company Limited v. Federation of Pakistan, Ministry of Works, and 4 others (2010 C L C 1843).***

Learned Counsel for Defendant No. 3 has adopted the arguments of the learned Counsel for the Plaintiff and has further contended that the agreement was signed by Defendant No. 3 with full authority and in support he has relied upon Section 210 of the Companies Ordinance 1984; that one who has expressed authority always possesses implied authority and therefore, no exception can be taken to the validity of the second agreement; that it has been the usual practice of the Company and its Directors to sign such agreements and in this context he has referred to another agreement dated 1.5.2014 (pg:757 of file); that the second agreement is still valid and therefore, the Plaintiff is entitled for an injunctive relief.

I have heard all the learned Counsel and perused the record. The dispute as it appears from the record is primarily to the effect that whether the first agreement could be terminated and further that whether a second agreement was entered into by Defendant No.1 whereby, the first agreement stands superseded and novated and if so, resultantly, the relationship between the Plaintiff and Defendant No.1 is to be regulated by the terms of the second agreement.

It appears that Defendant No.1 is a private limited Company incorporated under the Companies Ordinance having three Directors with 33% share each and they are Defendants No. 2, 3 and 4. Subsequently, they all have inducted their respective sons as shareholder(s) / director(s) in the company out of their own shareholding, but this change has no relevancy for the present purposes. The Plaintiff is a registered partnership concern admittedly owned by the wife and son(s) of Defendant No.3. The second agreement has been seriously disputed on behalf of Defendant No.1 Company, and for this reason I have gone through both the agreements in question minutely and the difference in its execution is notable (though this was not pointed out by any of the learned Counsel). The first agreement was entered into by and on behalf of Defendant No.1 Company with Plaintiff by Defendant No.2 on behalf of the Company. The said agreement was in respect of Trademark **"STILL MAN'S"** having registration No. 12207 permitting the Plaintiff to manufacture and export the goods in the *international market* under the said trademark. Admittedly it is not in relation to any Sales *locally*. The first agreement was effective from 11.3.2012 for a period of five years and thereafter, it could be renewed by mutual consent of both the parties. Clause 13(a) of the said agreement provided termination of the same by either party for any cause whatsoever by giving three months' notice to the other party. The said agreement also provided that in case any dispute arises in connection with the agreement it shall be settled in accordance with the provisions of Arbitration incorporated in the rules of Conciliation and Arbitration of the Chamber of Commerce and Industries, Karachi. It appears that according to Defendant No.1, the Plaintiff was in breach of the first agreement and therefore, on 28.1.2016 a notice of termination of the said license agreement was served upon the Plaintiff. The Defendant No. 1 invoked Clause 13(a)(b) and (c) of the said agreement by exercising the option of giving three months' notice to the Plaintiff. According to the learned Counsel for Defendant No.1, this clause provided for a simplicitor termination of the agreement without requiring or giving any reason(s). In the said notice it was also alleged by Defendant No. 1 that there was change in the constitution of the partnership firm after commencement of the agreement, whereas, the Plaintiff never informed Defendant No. 1 regarding such change. It is also alleged that Plaintiff has committed other violations of the agreement, including default in timely payments of royalty to Defendant No.1. On the other hand, the case as set up by the Plaintiff is to the effect that subsequently a second agreement was entered into which novated and or extended the first agreement and therefore, termination notice regarding the first agreement is of no legal effect as there exists no such agreement. The second agreement on its perusal reflects that in the preamble it has been mentioned that pursuant to the first agreement the Plaintiff is already manufacturing, marketing and exporting the products of Defendant No. 1 and is the registered user of the trademark by virtue thereof. The dispute at this stage of injunctive relief, before this Court is that whether the second agreement exists and has been executed by Defendant No.1, and if so, then whether the Plaintiff is entitled for injunction.

For this the Court has to come to a definite conclusion that by virtue of the second agreement the first agreement stands novated and now the Plaintiff has a right under the second agreement to not only export the products under the trademark **"STILL MAN'S"** but so also in the local market to the exclusion of anyone else including Defendant No. 1 which prior to the execution of the second agreement being done by it exclusively in the local market, until 2014, when another agreement was entered into which is not relevant for the present purposes. For that reference has to be made to the relevant clause in both the agreements which are reproduced as under:-

"**FIRST AGREEMENT**

WHEREAS STILLCO is the owner of TRADEMARK "STILLMAN'S" as set out in the schedule hereto and which is hereafter referred as the "SAID TRADEMARK".

WHEREAS, E&M wishes to participate in the know-how of STILLCO's PRODUCT and is desirous to be permitted to manufacture and EXPORT the goods in the international market under the following TRADEMARK (without altering the existing labels, art and design)

TRADEMARK	Registration No.	Goods and Classification
STILLMAN'S	12207	all cosmetic goods fall under Class 3

The aforesaid TRADEMARK has been duly registered, renewed and in full force.

Whereas, STILLCO is willing to grant to E&M the exclusive license to manufacture and sell STILLCO'S PRODUCTS in the international market.

NOW THEREFORE, the parties hereto agreed upon the terms and conditions under which E&M shall have the right to use the said TRADEMARK and for the purpose of more specifically defining the conditions under which E&M shall use the TRADEMARK both the parties hereto agreed to enter into this License Agreement.

1.(a) STILLCO hereby grants to E&M permission to use the said TRADEMARK (hereinafter referred to as the "PRODUCTS") in the international market under the registered TRADEMARK as specified hereinabove(hereinafter referred to as the "TRADEMARK").

(b) -------------

(c) -------------

(d) -------------

2. (a) -------------
(b) -------------
(c) -------------
(d) -------------
(e) -------------

3. (a) -------------
(b) -------------

4. (a) -------------
(b) -------------

5) -------------
6) -------------

7. E&M will be responsible to pay all taxes and levies on the manufacture of the PRODUCTS such as withholding Tax, Development Charges of KEPZ.

8. E&M agrees to pay royalties to STILLCO at the rate of US $ 1.25 per dozen of the PRODUCT namely, Stillman's Skin Bleach Cream 28g and Stillman's Freckle Cream 28g produced and exported. Royalties for other products will be decided in future if produced and exported under the Trademark Stillman's.

9. (a) -------------
(b) -------------

10. This Agreement shall be deemed to have become effective on 1st March 2012 and shall run for a period of five(5) years; thereafter, it can be renewed by mutual consent of both the parties and by exchange of letters. Amendment, if any, required during this period can be done with mutual consent of STILLCO and E&M in writing.

All disputes arising in connection with the agreement shall be settled in accordance with the provision of arbitration incorporated in the rules of Conciliation and Arbitration of the Chamber of Commerce and Industry, Karachi. If such arbitration does not lead to mutually satisfactory conclusion the matter shall be submitted to the court of law at Karachi."

"SECOND AGREEMENT

WHEREAS, LICENSOR has the power and authority to grant to LICENSEE the right, privilege and license to use the Trademarks on or in association with the goods and/or services covered by the registrations (the "Licensed Products"); and

WHEREAS, LICENSEE under an agreement dated 29-02-2012 is already manufacturing, marketing and exporting LICENSOR'S product and is the registered user of the trademark STILLMAN by virtue thereof; and

WHEREAS, LICENSEE has represented that it has the ability to manufacture, market and distribute the Licensed Products in Pakistan (hereinafter the "Territory") and to us the Trademarks on or in association with the Licensed Products; and

1. LICENSE GRANT

A. LICENSOR hereby grants to LICENSEE an exclusive license to use the Trademarks on or in association with the Licensed Products in the Pakistan to be manufactured by the licensee itself or through any independent source as per specifications approved by LICENSOR as well as on packaging, promotional and advertising material associated therein.

B. LICENSOR hereby grants to LICENSEE an exclusive right and license to use, manufacture, have manufactured, sell, distribute, and advertise the Licensed Products in the Territory. It is understood and agreed that this license shall pertain only to the Trademarks and the Licensed Products and does not extend to any other mark, product or service.

C. LICENSEE may not grant any sublicenses to use the trademark STILLMAN'S to any third party without the prior express written consent of the LICENSOR which may be withheld for any reason.

2. TERM OF THE AGREEMENT

This Agreement and the provisions hereof, except as otherwise provided, shall be in full force and effect commencing on the last date of execution below and shall extend for an initial period of Five years (hereinafter the "Term"). Upon maturity and unless otherwise expressly terminated by 3 months prior written notice by party desirous of discontinuing the agreement, it shall deem to have been renewed automatically for a like term on the terms and conditions as set out herein.

3. COMPENSATION

A. In consideration for the licenses granted hereunder, LICENSEE agrees to pay to LICENSOR a royalty of US $ 1.30/dozen (the "Royalty") based on LICENSEE's Sell of Licensed Products, accruing upon Export (Outside Pakistan) of the Licensed Products (i.e. when the Licensed Product is billed, invoiced, shipped, or paid for. And 30% of the net Sells of the licensed products in the territory (Pakistan), calculated on a quarterly calendar basis (hereinafter the "Royalty Period") and shall be payable no later than thirty (30) days after the termination of the proceeding full calendar quarter, i.e. commencing on the first (Ist) day of January, April, July and October, with late payments incurring interest at the rate of ONE PERCENT (1%) per month from the date such payments were originally due.

8. PATENTS, TRADEMARKS AND COPYRIGHTS

A. LICENSOR shall seek, obtain and, during the Term of this Agreement, maintain in its own name an at its own expenses, appropriate protection for the Trademarks, and LICENSOR shall retain all right, title and interest in the Trademarks as well as any modifications made to the Trademarks by LICENSEE. LICENSEE agrees that its use of the Trademarks inures to the benefit of LICENSOR and that the LICENSEE shall not acquire any rights in the Trademarks.

B. The parties agree to execute any documents reasonably requested by the other party to effect any of the above provisions.

19. INTEGRATION

This Agreement constitutes the entire understanding of the parties, and revokes and supersedes all prior agreements between the parties, including any option agreements which may have been entered into between the parties, and is intended as a final expression of their Agreement. It shall not be modified or amended except in writing signed by the parties hereto and specifically referring to this Agreement. This Agreement shall take precedence over any other documents which may be in conflict with said Agreement."

From perusal of the aforesaid relevant clauses of both the agreements and without attributing any disrespect, I would like to observe that both the agreements have been very badly drafted. It further appears that in the first agreement though the Plaintiff was assigned and authorized permission to manufacture the product under the trademark STILLMAN in Pakistan but could only export the same in the international market. There was no authorization for selling it in the local market. It further appears (See Clause-8) that the payment of royalties was agreed in respect of only two products, and for others the same was to be decided later on. None of the Counsel has assisted the Court in this regard. Insofar as the second agreement is concerned, if the intention of the parties was to further permit the Plaintiff to even Sell the product within Pakistan locally, then perhaps, there was only one clause which was required to be substituted / amended / novated in that context. The manner in which the second agreement has been made, I do not see that it is in continuation of the first agreement and when both these agreements are read in juxtaposition, it appears that the second agreement does not specifically, in clear terms, novates and supersedes the first agreement. This is notwithstanding the fact that in the second agreement, there is disclosure of the first agreement; however, the terms and conditions so incorporated in the second agreement makes it an independent / individual agreement which could not be termed either as dependent on the first agreement or in continuation or novation of the first agreement. It is settled law that for novation of the Contract the terms agreed upon between the parties must be clear and specific to the effect that it novates the first agreement. Here in this case, I do not see that there are clear intentions of the parties to make novation of the first agreement.

Moreover, insofar as the execution of the second agreement is concerned, its very existence has been seriously disputed by and on behalf of Defendant No.1. Admittedly, this agreement has been executed on behalf of Defendant No.1 / Company by Defendant No.3 (namely Sheikh Muhammad Shahid, as Director) with the Plaintiff firm which is owned by his son(s) and wife. On the other hand the first agreement was executed on behalf of the Company by Defendant No.2 (Sheikh Muhammad Akhtar as Director) and the same was witnessed by Defendants No.3 and 4 who are also Directors of the Company. In all fairness at least the execution of the first agreement was in the knowledge of all the three Directors of the Defendant No.1 Company, as one of the Directors was the signatory, and two others were its witnesses. In contrast the second agreement has been signed by one Director i.e. Defendant No. 3 with the Plaintiff and the two witnesses in the second agreement are not the other Directors. Why this methodology of signing and attestation, differently than the first agreement was adopted is not clear, considering the fact that one party is claiming its novation / extension. However, this for the present purposes, given an impression as well as a presumption that the two Directors that is Defendants No. 2 and 4 were kept in dark regarding execution of the second agreement, otherwise, both of them would have been at least the witness of the second agreement as was done while executing the first agreement. Though no conclusive findings can be given at this stage of the proceedings as it may prejudice the case of the parties at the trial of the Suit; however, prima facie this appears to be so when the two other Directors have seriously disputed the very execution of the second agreement. Unless the rights under the old contract are explicitly relinquished, no new contract comes into force. The procrastination by a party to abide by terms of the contract, which in the present context appears to gain benefit out of it, would not mean novation of the contract; it comes about where parties to the contract mutually agree to substitute it with the new contract. Therefore, if a party alleges novation of a contract, it has to establish these prerequisites.[1] A novation is a substitution of the contract and not a mere variation of its terms. Before novation can occur it must be shown as a fact that the intention of the parties was to substitute a new contract for the original contract.[2] The principle about novation or substitution of contract is quite well established and where only one of the parties to the contract alleges novation or alteration in the original contract but fails to establish the same, the parties to the contract are not absolved of the liability and obligation under the original contract. Substitution or novation of a contract takes place only by mutual consent of the parties.[3]

This is case of a family concern dispute. Two directors are on one side as against the other. The decisions of the Company / Defendant No.1 are to be taken by the majority. However, in this case insofar as the validity / execution of second agreement is concerned, one Director is against the other two, whereas, it is not the case of the Plaintiff or for that matter Defendant No.3, that he was in any manner authorized by means of anything in writing or otherwise had consent of two other

[1] Habib Ahmad v Meezan Bank Limited (2016 CLC 351)

[2] Dr. Khalid Kamal Khan v Dr. Arshad Kamal Khan (1992 CLC 1887)

[3] United Bank Limited v Golden Textile Mills Ltd., (2000 CLC 819)

directors to enter into any such second agreement. Learned Counsel for Defendant No.3 has though made an effort to rely upon s.210 of the Companies Ordinance, but even that also provides that such contract can only be entered into and be made binding on the Company if the same is with any *authority*, either *express* or *implied*. Here in this matter I do not see any such implied authority being conferred upon Defendant No.3 as contended. Moreover, in terms of s.214 ibid, there are some restrictions as well inasmuch as every director of a Company who is in any way, whether directly or indirectly, concerned or interested in any contract or arrangement entered into, or to be entered into by or on behalf of the company shall disclose the nature of his concern or interest at a meeting of the directors and the proviso states that a director shall be deemed also to be interested or concerned if any of his relatives, as defined in the Explanation to sub-section (1) of section 195 ibid is so interested, whereas, the Explanation defines the relative in relation to a director means his spouse and minor children. Defendant No.1 has pleaded that the plaintiff firms consists of spouse and son(s) of Defendant No.3, and there is no denial to that effect. Therefore, if that is the case then the provisions of s.216 will also be applicable, which within itself has very stringent conditions to be abided which apparently have not been done so. Therefore, the contention that the second agreement is an agreement of the Company / Defendant No.1 and is binding has no force, at least presently, in absence of any evidence to the contrary. An argument was also made that the seal of the company is also affixed on the second agreement, whereas, in terms of Article 85(o) of the Memorandum & Articles of Association of the Company, a Director is authorized to enter into negotiations and contracts, and therefore, the Defendant No.3 has acted within such powers. However, it may be relevant to observe, that such act must always be "*for the purposes of the Company*" as provided therein, whereas, according to two other Directors, it is not. Hence, vesting of any such authority, impliedly as contended, is of no legal effect at this stage of the proceedings. Notwithstanding this, even otherwise a Company Seal cannot be affixed on any instrument in terms of Article 86 ibid, except by the authority of a resolution of the board of directors, and this has to be done in presence of at least two directors. This again does not support the case of the plaintiff or for that matter of Defendant No.3.

Insofar as the first agreement is concerned, as of today, the same stands expired and therefore, it cannot be a case of any continuation or extension of the agreement until so agreed upon by the parties which is not the case here. No injunctive relief can be asked for or for that matter could be granted by the Court as and when the agreement already stands expired. Therefore, if enforcement of the said agreement cannot be sought, the necessary corollary is that no injunctive relief can be asked for. At the most the plaintiff may have a case of damages, owing to the alleged cancellation / modification of letter of intent.[4] The only remedy insofar as the first agreement is concerned, is by way of damages which the Plaintiff can only claim through a proper trial. Insofar as the second agreement is concerned, the same is disputed as to its existence and therefore, this Court at the injunction stage is not in a position to side with the Plaintiff as to the execution of the agreement. The reasons for not doing so have been stated hereinabove. It is settled law that there is no hard and fast rule laid down for grant and or refusal of an injunctive relief as it is dependent primarily on the peculiar facts of each case. Each case is decided on its own merits through it may be safe to say that grant of an interim injunction is an exception rather than a rule. Normally compensation in monetary is considered adequate for illegal termination of agency though indeed interim injunction can also be granted where there are special equities in favour of the plaintiffs[5]. The Court while granting injunction should or ought to be of the view that plaintiff applying for injunction was in all probability likely to succeed in the suit by having a decision in his favour and that his case was not likely to fail on account of some apparent defects. In order to obtain an interlocutory injunction, it is not enough for the plaintiff to show that he has a prima facie case. He must further show that (1) in the event of withholding the relief of temporary injunction he will suffer an irreparable injury; and (2) in the event of his success in the suit in establishing his alleged legal right, he will not have the proper remedy in being awarded adequate damages. In such a situation the plaintiff must show a clear necessity for affording immediate

[4] Syed Asghar Ali Shah v Pakistan International Airline Corporation (2016 CLC 189)

[5] Business Computing International (Pvt) Ltd. V IBM World Trade Corporation (1997 CLC 1903)

protection to his alleged right or interest which would otherwise be seriously injured or impaired[6].

In view of hereinabove facts and circumstances of the case I am of the view that Plaintiff has failed to make out a prima facie case, nor balance of convenience lies in its favour, whereas, no irreparable loss would be caused if the injunctive relief sought is refused.

Accordingly, CMA No. 4176/2016 is hereby dismissed. Interim order(s) passed from time to time in favor of the plaintiff, as a corollary, stands recalled.

2 to 5: Adjourned to a date in office.

Dated: 09.02.2018

J U D G E

ARSHAD/

[6] Pakistan State Oil Company Limited v Federation of Pakistan & Others (2010 CLC 1843)