

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Suit No. 2089 of 2017

Order with signature of Judge(s)

- For hearing of CMA No.13341/2017 (U/o XXXIX Rule 1 & 2)

24.09.2018

Mr. Muhammad Bashir Abbasi, Advocate for the Plaintiff
Mr. Munim Masood, Advocate for Defendant No.1

Heard the counsel. The case of the Plaintiff is that he is the creator of Trademark RANI, which he registered in the year 1986 in various forms, in Paragraph-5 of the plaint details of those trademarks are given. He states that his trademark is also registered in a number of different countries, in particular, the distinctive getup is also subject matter of the copyright certificate dated 31.08.2009 under Registration No.20161, Plaintiff has reproduced their wrapper as well as that of the Defendant No.1 (page-13) and states that adoption by the Defendant No.1 of a similar wrapper is causing deception in the market place as well people are made to believe that the goods emanating from the Defendant No.1 are those emanating from the Plaintiff and thus passing off as well as violation of Plaintiff's rights is in the offing.

Learned counsel for Defendant No.1 states that Defendant No.1 is also using the trademark from the year 2008 however only got it registered in the year 2015, reference is made the newspaper where advertisement for registration of defendant's copyright was published in daily Azad Riasat however it is only dated 08.03.2016. Counter affidavit filed by Defendant No.1 is utterly evasive and even does not mention the registrations sought by the defendants nor the year of first use.

A comparison of the competing wrappers shows that the defendants shave left no stone unturned to copy distinctive features of the Plaintiff's trademark. To me "*moron is a hurry*" and "*classical trinity*" tests have passed.

(See 2016 CLD 1064). In the circumstances at hand, the instant application is allowed. The Defendant No.1 is restrained from using any wrapper similar, identical or deceptively similar to the Plaintiff's wrapper reproduced at page-07 and from passing off its business as of the Plaintiff and violating the trade mark "RANI" of the Plaintiff, as registered in Pakistan under 90443, 111523, 90445, 90444, 111522, 230678, 115298, 230683 and 230680 through the use of the deceptively similar trademark "RAMI" or any other mark confusingly similar to the trade mark "RANI" of the Plaintiff and from exporting goods under the trade mark "RAMI" and from manufacturing, producing, selling, offering for sale, marketing, advertising or otherwise passing off or attempting to pass off "RANI" branded products of the Plaintiff or persons having business connection with the Plaintiff, by use of the mark "RAMI" or adopting a trade dress with whatsoever trademark, likely to deceive or cause confusion in the market place.

JUDGE