

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.1568 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
1.	For orders on CMA No.10177/16 (if granted)
2.	For orders on CMA No.10178/16 (U/S 151 CPC for exemption)
3.	For orders on CMA No.10179/16 (U/O 39 Rule 1 & 2 CPC.)
4.	For orders on CMA No.10180/16 (U/S 151 CPC.)

25.06.2016.

Mr. Abid S. Zuberi, Advocate alongwith Mr. Ayan Mustafa Memon, Advocate for the plaintiff.

1. Granted.
2. Granted subject to all just exceptions.
3. This is a Suit for declaration, permanent & mandatory injunction and damages filed by the plaintiff against the defendants in respect of using the name and style as **“Imperial Trading Corporation”**. Learned Counsel for the plaintiff submits that the plaintiff is using the name and style **“Imperial Trading Corporation”** since 1976 and is engaged in the import of Sanitary Wares and Tiles from across the world. Learned Counsel has placed on record the import documents in respect of such claim. He further submits that the plaintiff has recently applied for registration of Trademark **“Imperial”** under Class-19 in respect of Tiles and Sanitary Wares. Learned Counsel further submits that recently the defendant No.2 has issued a Legal Notice to the plaintiff by alleging that the plaintiff is using a confusingly identical and deceptively similar trademark being claimed by the defendant No.2. Per Learned Counsel such Legal Notice is without any justification as admittedly their Mark is not registered and was applied in the year 2014, whereas, the plaintiff is using the name and style as well as

mark **“Imperial”** since long. Learned Counsel has referred Section 52 of the Trade Mark Ordinance, 2001 and has contended that without prejudice to his submissions any such Legal Notice can only be issued by a person, who has a registered Trademark, whereas, the defendant No.2 has not.

Let notice be issued to the defendants for 04.07.2016. Till the next date of hearing, the defendant No.2 is restrained from threatening the plaintiff from using its trademark/trade name **“Imperial”** as well as **“Imperial Trading Corporation”**.

4. Notice for 4.7.2016.

J U D G E

Ayaz P.S.