

**ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI**

M.A No.48 of 2016

Order with signature of Judge(s)

Hearing of case

1. For orders on office objection
2. For hearing of main case

11.01.2024

Ms. Tayyeba Sadia, Advocate for the Appellant
Mirza Mehmood Baig, Advocate for Respondent No.2

Justice Zulfiqar Ahmad Khan:- This Appeal has been filed against an order available at page 277 in Trademark Opposition No.107/2014 in respect of the Trademark bearing No.314627, available at page 31 comprising of the word UNITED SEVEN STAR and Device of Wing, which application upon its advertisement in the Journal was challenged by the Respondent No.2 under Section 28 claiming that the Device of Wing conflicts with the prior rights of the Respondent and such device has acquired distinctiveness in respect of the Clause-12 goods manufactured and sold by the said Respondent No.2. Counsel for the Appellant urges that the Appellant ought to have been given grounds and reasons as to the disclaimer placed by the Registrar of Trade Marks that the mark will only be allowed without the Device of Wing.

To my understanding show cause notice issued to the Appellant would have constituted all such trademarks, which were similar with the Appellant's trademark, therefore the Appellant would have acquired knowledge about the relative grounds of refusal of the Mark. The fact is that the Appellant has deceptively chosen to use distinctive element of the competitor's Trademark and intended to sell its goods alongside those of the Respondent. Law of Trade Marks is expressly clear, as it protects very purchaser against all such deceptive practices, where use of a certain trademark may cause confusion in the mind of a purchaser, this Court in numerous cases has dilated on this aspect.

In these circumstances this M.A be devoid of any legal merits is dismissed.

JUDGE