

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Suit No. 1227 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGES
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1. For order on CMA No.10798/2024
2. For Evidence.

16-08-2024

Mr. Zark Ahmed Ghori, advocate holds brief for Ms. Saira Shaikh,
Advocate for the Plaintiff.
Ms. Hanya Haroon, Advocate for Defendant.

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1. Urgency granted.
2. Sabiha Khatoon, the plaintiff is a sole proprietor of S.S. Corporation who runs a registered proprietor of the trademark 'ROCKET' on baby diapers and connected products. The dispute involved in these proceedings is in respect of an alleged infringement of a trademark, which plaintiff claims is owned by her. The dispute falls under the ambit of the Trademarks Ordinance, 2001. Both counsels have submitted that the case should proceed before the Intellectual Property Tribunal.

My learned brother, Adnan Iqbal Chaudhry, J. in Suit No. 1097 of 2020 has observed that:

“After the pronouncement in the case of *Muhammad Multazam Raza v. Muhammad Ayub Khan and others* (2022 SCMR 979), it is now settled that exclusive jurisdiction to try such suits vests in the Intellectual Property Tribunal under sections 17 and 18 of the Intellectual Property of Pakistan Organization Act, 2012 [**IPOP Act**]. Sections 17 and 18 of the IPOP Act came into effect from 29-12-2015 vide SRO No.1330(I)/2015. The suit was filed thereafter and therefore not within the jurisdiction of this Court at the time it was filed. In these circumstances, sub-section (6) of Section 17 of the IPOP is not attracted for transferring the case. Consequently, the plaint is returned to the Plaintiff under Order VII Rule 10 CPC for presentation before the Intellectual Property Tribunal.”

I agree with the observations of my learned brother. Consequently, the plaint is returned under Order VII Rule 10 C.P.C. to the Plaintiff for presentation before the Intellectual Property Tribunal, if they so desire.

JUDGE