

**IN THE HIGH COURT OF SINDH,
AT KARACHI**

Suit No.144 of 2021

Plaintiffs : Keychain Films & another
through Abdul Baqi Lone,
Advocate.

Defendants : Mohatta Palace Museum
through Shahab Usto,
Advocate.

Date of hearing : 29.03.2024.

ORDER

YOUSUF ALI SAYEED, J. - The Plaintiffs claim copyright in a documentary film titled “The Petman Girls” and have brought this Suit alleging infringement on the part of the Defendants through an unauthorized screening thereof, with damages being sought on that score in the sum of Rs.38,990,000/- along with a permanent injunction to restrain further screenings or other acts violative of such rights.

2. That being said, it merits consideration that a jurisdictional point arises for consideration in view of the nature of the *lis*, as the provisions of the Intellectual Property Organization of Pakistan Act, 2012 (the “**2012 Act**”) confer the exclusive jurisdiction for the trial of all suits and other civil proceedings regarding the infringement of intellectual property laws upon the Intellectual Property Tribunals (“**Tribunals**”) constituted under Section 16 of that Act.

3. Section 2(h) of the 2012 Act defines "Intellectual Property Laws" as the laws specified in the Schedule to the Act, which includes the Copyrights Ordinance 1962, whereas Sections 17 and 18 thereof determine the powers and jurisdiction of the Tribunals while providing that:

“17. Powers of the Tribunals. (1) Subject to the provisions of the Act, the Tribunal shall,

(a) in the exercise of its civil jurisdiction, have all the powers vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908);

(b) in the exercise of its criminal jurisdiction, try offences made punishable under this Act and shall, for this purpose have the same powers as are vested in a Court of Sessions under the Code of Criminal Procedure, 1898 (Act V of 1898);

(2) The Tribunal shall in all matters with respect to which the procedure has not been provided for in this Act, follow the procedure laid down in the Code.

(3) All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning or sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860).

(4) Subject to subsection (5), no court other than a Tribunal shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of the Tribunal extends under this Act.

(5) Nothing in sub-section (4) shall be deemed to affect any proceedings pending before such court immediately before the coming into force of this Act.

(6) All suits and proceedings pending in any court instituted under intellectual property laws shall stand transferred to, and be heard and disposed of by, the Tribunal having jurisdiction under this Act. On transfer of proceedings under this subsection, the parties shall appear before the Tribunal concerned on the date previously fixed.

(7) In respect of proceedings transferred to the Tribunal under subsection (6), the Court shall proceed from the stage which the proceedings had reached immediately prior to the transfer and shall not be bound to recall and re-hear any witness and may act on the evidence already recorded or produced before a court from which the proceedings were transferred.”

“18. Jurisdiction of the Tribunals. (1) All suits and other civil proceedings regarding infringement of intellectual property laws shall be instituted and tried in the Tribunal.

(2) Notwithstanding anything contained in any other law for the time being in force, the Tribunal shall have exclusive jurisdiction to try any offence under intellectual property laws.”

4. In view of the foregoing, it is manifest that the jurisdiction in respect of the subject of the present Suit vests exclusively with the Tribunals

5. As such, the Plaint is ordered to be returned, with the office being directed to do the needful while retaining a copy of the pleadings for the record in the Court file.

MUBASHIR

JUDGE