

IN THE HIGH COURT OF SINDH, KARACHI

CP No.S-6170 of 2025

(Saddam Hussain Magsi v. The Federation of Pakistan and 3 others)

Before:

Justice Muhammad Saleem Jessar

Justice Nisar Ahmed Bhanbhro

Petitioner : Saddam Hussain Magsi through Mr. Ghulam
Mustafa, advocate

Respondents : Nemo.

Date of hearing and order: 29.12.2025

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ORDER

Nisar Ahmed Bhanbhro, J. Through the instant petition, the petitioner claims following relief(s):

“a. To declare that PETITIONER NAME, IMAGE, VIDEO, VOICE OR ANY CONTENT BELONGING TO PETITIONER is sole & exclusive property of petitioner.

b. To grant permanent injunction against public at large from misusing PETITIONER NAME, IMAGE, VIDEO, VOICE OR ANY CONTENT THAT BELONGS TO PETITIONER .

c. To declare null & void any business & earnings thereof using PETITIONER NAME, IMAGE, VIDEO, VOICE OR ANY CONTENT THAT BELONGS TO PETITIONER.

d. To refund or payback any business & earnings thereof back to the petitioner which is generated using PETITIONER NAME, IMAGE, VIDEO, VOICE OR ANY CONTENT.

2. Learned counsel for the petitioner argued that the petitioner is sole and exclusive owner of the Mentor-ship Institute/ CSS mentor in the name and style of Torch Bearer CSS Academy (TBA) Karachi. He argued that the institute provided platform for preparation of CSS to the aspirant youth. He further argued that the petitioner uses social media platforms viz. Instagram, Youtube, Facebook and Tiktok for promotion of his academy. TBA as such has developed as a brand since last many years for preparation to CSS courses. He argued that

Petitioner posted the video, audio, written contents on the social media platforms which are the personal property of the TBA and cannot be used by any other person in any manner. He contended that unknown persons were using social media contents of TBA for their personal gains which violated the fundamental rights of the Petitioner guaranteed under Article 4, 9, 14 and 18 of the Constitution of the Islamic Republic of Pakistan, 1973. He lastly prayed that the petition be allowed and a declaration be issued that the images and all other material were owned by the petitioner and its use by other persons without consent of Petitioner was illegal.

3. Heard arguments and perused the material available on record.

4. Scanning of the record envisaged that petitioner seeks a declaration as to the contents on Social Media Platform as his personal work and personal property and seeks restraining orders that the said property may not be used by any other person without consent by the Petitioner. In other terms the petitioner seeks a declaration that the written, audio and visual works posted on Social Media platforms may be declared as intellectual property and its use be restricted to the consent of the Petitioner.

5. To protect the rights as to the intellectual property, the Intellectual Property Organization of Pakistan Act, 2012 (**the IPOPA Act-2012**), was enacted, the preamble to the Act provides that:

“WHEREAS Intellectual Property Rights including copyrights, trade-marks, patents, designs, lay-out, designs of integrated circuits, trade secrets and other intellectual property laws; supported by other laws are powerful tools for economic growth. The protection of these and similar intellectual property rights of the citizens is essential to foster creative thinking, stimulate creativity, provide incentives for technological innovations, and attract investment;

AND WHEREAS it is expedient to establish the Intellectual Property Organization of Pakistan to provide for the institutional arrangement in the state setup for taking up exclusively and comprehensively all subjects and matters relating to intellectual property rights in an integrated manner and for matters connected therewith or incidental thereto;

6. Section 2(g) and 2(h) of the IPOAct-2012, defined the "Intellectual Property" and "Intellectual Property Laws" as under:

"2. Definitions.-In this Act, unless there is anything repugnant in the subject or context,-

(a)

(g) Intellectual Property" includes a trademark, patent, industrial design, layout-design (topographies) of integrated circuits, copyright and related rights and all other ancillary rights:

(h) "Intellectual Property Laws" means the laws specified in the Schedule;

7. The petitioner seeks a declaration as to the exclusive ownership over the social media content, written and "audio-visual work". In order to protect his work, petitioner needs to register the work with the copy rights Board constituted under the provisions of Copy Right Act 1962 (CRA). Section 38 of the Act provides that the author or publisher, or the owner of or other person interested in the copyright of any work may make an application in the prescribed form accompanied by the prescribed fee to the Registrar for entering particulars of the work in the Register of Copyrights. On receipt of an application in respect of any work, the Registrar shall enter the particulars of the work in the Register of Copyrights and issue a certificate of such registration to the applicant unless, for reason to be recorded in writing, he considers that such entry should not be made in respect of any work.

8. Once a work is registered under the Copyright Register, its use by any other person without the consent of the owner of the copyright or without a license granted by such owner or the Registrar or its use in contravention of the conditions of a license so granted or of any condition imposed by a competent authority under the law shall not be permissible. If the work is used by any other person for sale or hire or sells or lets for hire, or by way of trade displays or offers for sale or hire, or distributes either for the purpose of trade to such an extent as to affect prejudicially the owner of the copyright, such act shall be deemed to be an infringement of the copyright and owner can sue the unauthorized user in accordance with law.

9. When confronted as to whether the Petitioner had the copyrights over the social media contents for which he seeks declaration, Counsel for the Petitioner frankly conceded that content has not yet been registered with the Registrar of

Copy Rights under the Copyright Act, 1962. In absence of registration of Copy Right Petitioner cannot seek declaration in the nature made in the instant petition.

10. In order to protect the rights in the intellectual property, the IPOPA-2012 provides for establishment of the Intellectual Property Organization of Pakistan so as to ensure the implementation of the intellectual property rights in Pakistan in coordination with the concerned agencies. If a person intends to bring any of the property within the definition of the intellectual property, he has to get the said property registered under the provisions of the law placed in the schedule of IPOPA Act.

11. Since the declaration sought by the petitioner falls exclusively under the domain of the intellectual property laws and any infringement thereof could be agitated before the Tribunal established under section 17 of IPOPA Act 2012, for which the Petitioner is required to adopt a due course of law provided under schedule to the IPOPA Act 2012. Moreover the petitioner has raised disputed questions of the facts which cannot be adjudicated under the writ jurisdiction of this Court, making instant petition not maintainable under the law

12. In the wake of above discussion, this petition fails and the same is accordingly dismissed in limine along with pending application(s), if any.

JUDGE

Head of Const. Benches

Nadir/PS*

Karachi

Dated: 29.12.2025

Approved for Reporting