

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI
J.M. No.22 of 2015
[Dawn Foods Inc. vs. Golden Harvest Foods Pvt Ltd.]

Date	Order with signature of Judge
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For hearing of CMA No.7244/2015 [u/o 39 rules 1 7 2]
For hearing of CMA No.18941/2016 [u/s 81]

21.10.2025

Mr. Bashir Abbasi, Advocate for Applicant.
Khawaja Shoib Mansoor, Advocate for Respondent.

ARSHAD HUSSAIN KHAN, J. This **Judicial Miscellaneous Application No. 22 of 2015** has been filed by Dawn Foods Inc. a Corporation organized under the laws of State of Michigan, USA, under Section 73 and Section 96 of Trade Marks Ordinance, 2001, seeking cancellation / rectification / removal of registered trademarks No. 233878 in Class-31, ‘DAWN & DESIGN’ dated 16.03.2007 from the Register of Trade Marks. The record reflects that **Suit No. 703 of 2015**, instituted before this Court for infringement in respect of the same subject trademark and between the same parties, pertains to the present Judicial Miscellaneous Application. However, upon the promulgation of the Civil Courts (Amendment) Act, 2025, the aforesaid suit, along with others, stood transferred to the competent District Court, Karachi [East] in accordance with the amended jurisdictional provisions. The said suit has been re-numbered as **Suit No.6132/2025** before the trial court. In this regard, a Statement has also been filed by the learned counsel for respondent No.1, which is taken on the record.

Learned counsel for the respondent, while placing on record a photocopy of a common judgment passed by a Division Bench of this Court in High Court Appeal No. 264 of 2021 along with High Court Appeals Nos. 01 and 02 of 2022, has drawn the attention of this Court to the observations made therein, and has prayed that the same treatment be extended to the present matter in line with the said judgment, and that the suit, which was transferred to the District Court be recalled and heard along with the present Judicial Miscellaneous

application. Learned counsel for the applicant has No Objection to such course being adopted.

At the outset, a short summary of the aforesaid judgment is set out below for ready reference.

The Division Bench of this Court comprising Honourable Chief Justice Muhammad Shafi Siddiqui [as he then was] and Mr. Justice Jawad Akbar Sarwana while dealing with the aforesaid appeals held that the jurisdiction over intellectual property (“IP”) disputes under the *Intellectual Property Organization of Pakistan (IPOP) Act, 2012* lies primarily with the Intellectual Property Tribunals, but the treatment of pending and new cases depends on the **date of institution** and **nature of proceedings**. The Court classified trademark-related suits into three categories:

1. **Category “A”**—Suits filed **on or before 28.12.2015** (before the IP Tribunals became operational): these are to be **transferred** to the IP Tribunal, not returned or rejected.
2. **Category “B”**—Suits filed **on or after 29.12.2015** (after Tribunal jurisdiction commenced): such complaints are to be **returned** for presentation before the IP Tribunal, as the High Court lacks jurisdiction.
3. **Category “C”**—Cases involving **statutory applications filed directly in the High Court** under the *Trade Marks Ordinance, 2001* (e.g., under Sections 73, 80, or 96) that are **interconnected** with pending suits; these may **continue before the High Court** to avoid conflicting decisions and multiplicity of proceedings.

The Bench further affirmed that “passing off” and “groundless threats” actions also fall within the ambit of “IP Laws” as defined in the IPOP Act, following *Muhammad Multazam Raza v. Muhammad Ayub Khan* (2022 SCMR 979). Consequently, such matters are triable by the IP Tribunal.

Applying these principles, the Court:

- **Transferred** Suit No. 2578/2014 (*Muhammad Ali Barry v. Kaybee Snacks & Others*) to the IP Tribunal (Category A).
- **Restored** Suit No. 2058/2019 (*Mahle Engine Components Japan Corp. v. Azam Autos & Another*) to the High Court to be heard along with *J. Misc. No. 23/2020* (filed under Section 80 TM Ordinance) as a **Category C** case.
- **Clarified** that after the *Trade Marks (Amendment) Act, 2023*, all future suits “for infringement or otherwise relating to any right in a trademark” must be **instituted only before the IP Tribunal**, as the term “District Court” has been replaced with “IP Tribunal.”

In essence: the judgment establishes a clear temporal and procedural framework governing which forum (High Court or IP Tribunal) has jurisdiction over IP/trademark disputes, emphasizing the prevention of conflicting decisions and multiplicity of proceedings.

In view of the judgment rendered by the Division Bench of this Court, wherein various Judicial Miscellaneous Applications and connected suits relating to trademark disputes were categorized and specific directions were issued regarding their placement and hearing in accordance with the respective categories determined therein, and

since, as submitted by learned counsel for the parties, **Suit No. 703 of 2015**, which had earlier been transferred to the District Court pursuant to the Civil Courts (Amendment) Act, 2025, squarely falls within Category “C” as defined in the said judgment, it is accordingly directed that the office shall call back the record of **Suit No. 703 of 2015 [re-numbered as Suit No. 6132 of 2025]** from the District Court, Karachi [East]. The same shall be placed along with the present Judicial Miscellaneous Application for joint consideration and further proceedings in accordance with law, so that both matters may be heard and adjudicated together to ensure consistency and proper determination.

Adjourned. Office to fix the present JM after compliance of the above order.

JUDGE

*Jamil**