

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

J.Ms No. 51 to 68 of 2016

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DATE                      ORDER WITH SIGNATURES OF JUDGE(S)  
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For orders on CMA No.16813/2016 (U/S 94 CPC)

30.01.2017

Mr. Nadeem Yaseen, Advocate for the applicant  
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Pursuant to this Court's order dated 19.12.2016, the counsel came prepared and placed his arguments before this Court as to the intention of Section 73(4), as well as, Section 80(4) of the Trade Mark Ordinance, 2001. Per counsel, because the trade mark in question is in dispute between two independent parties before this Court, therefore, there is likelihood that the Registrar may refuse to entertain his applications for revocation and invalidity. On this juncture, the counsel was advised that there are numerous cases, where disputes as to the infringement of trade marks are pending in courts, however, Registrar of Trade Marks gives decisions independently on the applications filed under Section 73 and/or Section 80, irrespective of the nature of the dispute or likelihood of the outcome from the suits pending before the High Court or the District Court. Counsel was advised that the appropriate procedure if adopted to file the applications before the trade mark office that will give him and added a remedy to challenge the decision of the Registrar before this Court, which he may not be able to do, if a decision is made in the instant application. However, the counsel still fears that respondent No.1 may not entertain his applications for revocation/invalidation.

The counsel however contends that he would be satisfied if an order is passed of the nature that if the applicant file appropriate applications for cancelation/revocation, the Registrar

shall hear and decide the same independently of any matters pending in this Court or District Court. Order accordingly. With these orders given to the Registrar, the counsel for the applicant agreed to withdraw the instant J.Ms, which are disposed of in the above terms.

JUDGE

Barkat Ali/PA