

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit No. 1219 of 2011

Order with signature of Judge(s)

1. For hearing of CMA No.10297/2011
2. For ex-parte order against defendant

20.08.2018

Mr. Abdul Qayyum Abbasi, Advocate for the Plaintiff
Defendant Zafeeur-ul-Haq Qasmi is present in person

1. Through instant application, a prayer has been made that the Defendant be restrained from interfering in the Plaintiff's business of electronic money transfer which the Plaintiff is doing under name *Easypaisa* trademark. Between pages 253 to 331 copies of various applications of trademark *Easypaisa* and its various versions as filed by the Plaintiff before the Trade Mark Registry are attached. It is contended by the counsel for the Plaintiff that the Plaintiff after having acquired license commenced operation of money transfer through use of mobile and internet as well as facility of making payment of utility bills through mobile phone was also provided to Plaintiff's customers, however this commerce being conducted by the Plaintiff was attempted to be restrained by Defendant who allegedly acquired copyright in leaflet produced at Page-335. The leaflet is an advertisement, in which photograph of mobile phone, browser and that of a telephone operator are seen. The Defendant is present in person and submits that he was the first one who conceived the idea of making use of mobile phone to transfer money through use of mobile internet, as well as payment of utility bills and he approached the Copyright Registry and got the certificate dated 30.06.2010 (Page-333) issued in his favour. The certificate is in respect of literally work, however it is admitted by him that no software was submitted.

Be that as it may, the Defendant present in person claims monopoly in method of doing business through software, which is neither protected by the patent laws nor Intellectual Property laws of Pakistan recognize software patents

or method of doing business. By mere having registered a concept through a flowchart as literally work does not give any right to the Defendant except in the artistic work for reproductional purposes, therefore he cannot be said to have attained any right to restrict the Plaintiff's operation of e-commerce through mobile internet. The counsel for the Plaintiff submits that on account of said registration the Defendant is harassing the Plaintiff and using copyright as an instrument to deter competition, which is not in the purview for the copyright registration. Apparently, Defendant moved an application to FIA, which is once again is misuse of law as no Defendant's copyright is infringed by the e-commerce run by the Plaintiff. In the circumstances at hand, the Defendant is restrained from interfering into the business of the Plaintiff who is using mobile internet to transfer money from one person to other and for the payment of utility bills etc. The Defendant is warned not to misuse the instrument of copyright for his illegal gains, which is an offence of groundless threats under Intellectual Property laws of Pakistan. Resultantly, the instant application is granted as prayed.

At this juncture, counsel for the Plaintiff wishes to have the suit disposed of in above terms but after having consulted with his client for which two weeks' time is given.

To come up on 11.09.2018.

JUDGE