

ORDER SHEET
THE HIGH COURT OF SINDH KARACHI

J.M. No. [-] 1074 of 2024

[Institute of Business Administration v. Today Company (SMC - Private)
Limited & another]

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection at flag "A".
2. For hearing of CMA No. 10563 of 2024.

24-02-2025

Mr. Muhammad Ali Lakhani, Advocate for the Plaintiff.

Adnan Iqbal Chaudhry J. - By judgment dated 10.02.2025 passed in HCA No. 289 of 2024, a learned Division Bench of this Court has held that even where no proceedings concerning the trade mark are pending in the High Court, an application for invalidating trademark registration under section 80 of the Trade Marks Ordinance, 2001 [Ordinance] can be presented before High Court. However, with regards to an application for revoking trademark registration under section 73 of the Ordinance, it was held that where no proceedings concerning the trademark were pending in the High Court, such application has to be presented before the Registrar Trade Marks. While this Bench has held in J.M. No. [-] 1494/2024 (order dated 14.01.2025) that even an application under section 80 of the Ordinance has to be presented before the Registrar Trade Marks, the judgment of the Division Bench is binding on this Bench.

This J.M. is made as a common application both under section 73 and section 80 of the Ordinance in circumstances where no proceedings are pending in the High Court concerning the subject trademark. As per the judgment of the Division Bench *supra*, the J.M. is clearly not maintainable before this Court to the extent of the relief sought under section 73 of the Ordinance, and for which an application lies before the Registrar Trade Marks. For this reason the

Applicant was required by order dated 11.02.2025 to move an appropriate application to confine this J.M. to section 80 of the Ordinance. That has not been done by the Applicant. Therefore, for relief under section 73 of the Ordinance *viz.* prayer clause-1, the J.M. is dismissed with the observation that the Applicant may move such application before the Registrar Trade Marks. The Applicant is given two-weeks' to file an amended application to confine this J.M. to section 80 of the Ordinance.

*PA/SADAM

JUDGE