

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

C.M.A. No.97 of 2022  
Saffron Event Lawns (Pvt.) Ltd. and others  
**Versus**  
Khalid Mahmood and another

**Date of Hearing:** 16.03.2023.  
**Appellants by:** M/s Shabbir Mahmood Malik and  
Muhammad Furqan Shabbir, Advocates.  
**Respondents by:** Mr. M. Tariq Malik, Advocate.

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**MIANGUL HASSAN AURANGZEB, J:-** Through the instant civil miscellaneous appeal filed under Section 19 of the Intellectual Property Organization of Pakistan Act, 2012, the appellants impugn the judgment and decree dated 29.06.2022 passed by the learned Presiding Officer, Intellectual Property Tribunal, Islamabad, whereby the suit instituted by respondent No.1 (Khalid Mahmood) was decreed and the appellants were restrained from using the registered trade mark "Saffron."

2. Learned counsel for the appellants submitted that the certificate of registration of trade mark issued on 20.12.2005 by the Trade Marks Registry, Karachi in favour of the respondents was only in respect of "Ice Cream Parlour and Snacks Bar" whereas the certificate of registration of trade mark issued on 23.05.2006 in favour of the respondents was only in respect of "Burgers and Snacks"; that the appellants are not engaged in the business of running an ice cream parlour or snacks bar and do not sell burgers or snacks; that the word "Saffron" used by the appellants for their business of event management is dissimilar from the respondents' registered trade mark; that the respondents are running a restaurant called Saffron Foodies Restaurant whereas the registration of their trade mark is in classes 29 and 43 which is only for burgers and snacks and ice cream parlour and snacks bar; and that since the appellants are not engaged in the business of selling ice cream, burgers or snacks, the question of an infringement of the respondents' trade mark does not arise. Learned counsel for the appellants

prayed for the appeal to be allowed and for the impugned judgment and decree dated 29.06.2022 to be set-aside.

3. On the other hand, learned counsel for the respondents submitted that the respondents are well known merchants in food products and have a restaurant called Saffron Restaurant; that the brand name "Saffron" is registered in the respondents' favour in classes 29 and 43; that the appellants had also opened a restaurant by the name of Saffron and in this way have infringed the respondents' registered trade mark; that the respondents' registered trade mark has become a symbol of their product; that the appellants were committing an act of illegally passing off their goods as those of the respondents; that the appellants' continuous infringement of the respondents' registered trade mark is causing a loss to the respondents' reputation and goodwill; and that the impugned judgment and decree dated 29.06.2022 does not suffer from any legal infirmity. Learned counsel for the respondents prayed for the appeal to be dismissed.

4. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

5. It is not disputed that on 20.12.2005, the Trade Marks Registry, Karachi issued a certificate for the registration of the trade mark "Saffron" in class 43 in respect of "Ice Cream Parlour and Snacks Bar" in favour of the respondents. Thereafter, on 23.05.2006, the Trade Marks Registry, Karachi issued a certificate for the registration of the trade mark "Saffron" in class 29 in respect of "Burgers and Snacks" in favour of the respondents. These certificates show that the respondents were trading as "Saffron Ice Cream Parlour and Snacks Bar".

6. At no material stage have the appellants applied for the registration of a trade mark "Saffron" in their favour.

7. I have examined the registration certificates of the respondents' trade mark which have been produced in evidence as Exh.P1 and Exh.P2. I have also compared the logo "Saffron" which is used by the appellants (Exh.P5) and the logo "Saffron"

which is used by the respondents (Exh.P6), and have found the same to be strikingly similar. Other than the letters used, there is also a fern atop the logo of Saffron which appears in the respondents' registered trade mark as well as the logo "Saffron" admittedly used by the appellants. The use of the words "Saffron" along with the fern used by the appellants shows that the appellants wanted to take advantage of the goodwill generated by the respondents and in this way have infringed their registered trade mark.

8. The Trade Marks Rules, 2004 were made by the Federal Government in exercise of the powers conferred by Section 132 of the Trade Marks Ordinance, 2001. Rule 11 of the said Rules provides that for the purposes of the registration of a trade mark and of the said Rules, goods and services shall be classified in the manner specified in the Fourth Schedule, which sets out the current version of the classes of the International Classification of Goods and Services ("I.C.G.S.").

9. As mentioned above, the respondents' trade mark is registered in classes 29 and 43, which as per the Fourth Schedule to the Trade Marks Rules, 2004, read thus:

*"Class-29: meat, fish, poultry and gain, meat extracts, preserved, dried and cooked fruits and vegetables, jellies, jams, fruits sauces, eggs, milk and milk products; edible oils and fats; pickles.*

*Class-43: services for providing food and drink; temporary accommodation."*

10. The Explanatory Notes to the I.C.G.S. further make it clear that the nature of services in class 43 include temporary accommodation reservations, for example, hotel reservations; rental of meeting rooms, tents and transportable buildings; decorating of food, food sculpting; rental of cooking apparatus; rental of chairs, tables, table linen, glassware; hookah lounge services; and personal chef services.

11. The classes for which the respondents' trade marks were registered fully entitle them to run a restaurant which they have been doing since the past many years. Learned counsel for the appellants candidly admitted that the appellants in their business of event management also serve food and drink in their wedding

marquees. Section 40(1) of the Trade Marks Ordinance, 2001 provides that “*a person shall infringe a registered trade mark if such person uses in the course of trade a mark which is identical with the trade mark in relation to goods or services which are identical with those for which it is registered...*” The use of the respondents’ registered trade mark by the appellants in their business of event management which includes the services that could be performed under class 43 especially bearing in mind the above referred Explanatory Notes, in my view, is a clear infringement of the respondents’ registered trade marks.

12. In view of the above, I do not find any legal infirmity in the impugned judgment and decree dated 29.06.2022. Consequently, the instant appeal is dismissed with no order as to costs.

**(MIANGUL HASSAN AURANGZEB)  
JUDGE**

**ANNOUNCED IN AN OPEN COURT ON 30.03.2023.**

**(JUDGE)**