

# Stassen loses Trade Mark case

Commercial High Court Judge Rohini Walgama recently made order in an appeal filed by Stassen Exports Ltd, dismissing the appeal from an order of the Director General of Trade Marks in relation to the renowned 'RABEA' Trade Mark.

This case is a sequel to an appeal to the High Court filed by Stassen Exports seeking an order to expunge several Trade Marks registered with the Registrar of Trade Marks and to conduct a fresh inquiry.

The Plaintiff was represented by Prasanna Gunawardene & Company, through its Counsel A. Aziz.

The original Trade Marks were registered in the name of M.S. Hebtulabhoy & Co. Ltd., Sri Lanka, and related to the original Trade Mark 'RABEA' in respect of Tea.

The dispute had arisen out of eight Trade Marks registered originally, which all had the word "RABEA" in English

and Arabic. The Director General of Intellectual Property had accepted and registered the Marks and gazetted them.

Baeshen & Co. of Saudi Arabia, contended that the Trade Marks had been duly assigned and transferred to them - and accepted by the Director General of Intellectual Property. They also stated that they were substituted and made a party to this case by an order of Court.

Baeshen & Co. had submitted that they sold Tea in several countries worldwide, and are the owners of the Trade Mark "RABEA" in several countries including Sri Lanka.

Senior State Counsel S. Balabatabendi representing the Director General of Trade Marks, in his submissions, said that the latter in terms of the Intellectual Property Act, has to register the eight Trade Marks, due to the fact that any party interested in opposing the registration of Trade

Marks, is entitled to file a notice of opposition, and no such notice had been filed.

He also stated that, despite further time being granted in terms of the Act, the Appellant had failed to do so, and stated that they had acted within the framework and the powers vested under the said Act.

The Respondent's position was that there is no ground of appeal, as the Appellant had failed to file the statutory notice of opposition, as mandated by Law.

The 2nd - 8th Respondents, Baeshen & Company of Saudi Arabia, represented in Sri Lanka by its Attorney Prosper de Costa, in his submissions, stated that the Trade Marks have now been assigned to them.

Represented by its Counsel Hiran de Alwis and Srimal Weerakkody, they contended that the previous owners, Messrs Hebtulabhoy & Co.

had transferred the title in the Trade Marks, the subject matter of this appeal, and that Baeshen & Company are the owners and the Trade Mark owner of the Trade Mark No. 31953, "RABEA".

Following submissions by both parties, the High Court Judge made order dismissing the appeal of Stassen Exports Ltd, seeking a declaration to expunge the Trade Marks. The Court held that the Defendants-Respondents stated that the Plaintiff be stopped from making such application to expunge the Mark, which had been duly registered, after having been published in the Government Gazette.

The order also stated that the original 2nd Defendant, Hebtulabhoy & Co. Ltd had assigned its rights by way of a Deed of Assignment to Baeshen & Co., who were substituted by order of this Court dated 19/07/2007.