

sg

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

LEAVE PETITION NO.25 OF 2015

IN

SUIT (L) NO.113 OF 2015

WITH

NOTICE OF MOTION (L) NO.327 OF 2015

IN

SUIT (L) NO.113 OF 2015

Gajalee Coastal Foods Pvt. Ltd. And Anr. ...Plaintiffs

vs

M/s. Malvani Gajali ...Defendant

.....

Mr. Nishad Nadkarni, a/w. Mr. Vaibhav Keni, and Mr. Sumeet Rane, i/b.
M/s. Legasis Partners, for the Plaintiffs.

None for the Defendants.

.....

CORAM : S.C. GUPTE, J.

DATED: FEBRUARY 13, 2015

P.C. :

. Leave Petition is taken up for hearing. The Defendant has been served, but does not appear. An affidavit in proof of service is tendered by the learned Counsel for the Plaintiffs.

2. On the basis of the averments made in the Petition, a case for leave to combine the causes of action of infringement and passing off is made out. The Petition is, accordingly, allowed in terms of prayer clause (a) and the leave is granted.

3. Now as regards the application for ad-interim reliefs, it may be noted that the Motion was moved for ad-interim reliefs initially on 10 February 2015, when this Court thought it fit to give a minimum 48 hours' notice to the Defendant before the ad-interim application and, accordingly, directed the Plaintiffs to serve the Defendant afresh. The Plaintiffs have tendered today an affidavit in proof of such service. Despite service, the Defendant is absent today. Having regard to the peculiar facts of this case, I am of the view that the Motion should be disposed of finally after giving an opportunity to the Defendant to put in its reply. The reply may be filed within a period of two weeks from today. Rejoinder, if any, on or before 3 March 2015.

4. The Notice of Motion will be taken up for final hearing on 5 March 2015 at 3.00 pm. It is made clear that the matter will be heard peremptorily on that date. It is also made clear that this is the last opportunity being afforded to the Defendant to show cause why the interim reliefs claimed by the Plaintiffs ought not to be granted. The Plaintiffs to serve a copy of the present order on the Defendant and produce an affidavit of service by the next date.

5. Stand over to 5 March 2015 at 3 p.m. for hearing of the Notice of Motion.

(S.C. GUPTE, J.)