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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL No. 565 OF 2014
IN
NOTICE OF MOTION No. 1324 OF 2011
IN
SUIT No. 13 OF 2010

Sahjun Impex Trading Pvt. Ltd. ... Appellant
Vs.
The Official Liquidator of
Patheja Forgings & Auto Parts
Manufacturers Ltd. (In Liqn.) & Ors. ... Respondents

Mr. Zubin Behramkamdin a/w Niranjan Amit & Prerak Sharma i/b B.
Amin & Co., for the Appellant.

Mr. Snehal Shah a/w M/s. Geetanjali Joshi i/b Doijodi Associates, for
Respondent No. 7.

Mr. Monil Punjabi i/b Apex Law Partners, for Respondent No. 11.

CORAM : V. M. KANADE, &
REVATI MOHITE DERE, JJ.

DATE : FEBRUARY 6, 2015

PC.

1. The Appellant is challenging the order dated 23rd
December, 2013 passed by the learned Single Judge, dismissing the
Notice of Motion No. 1324 of 2011 on the ground that motion is not
served on the Respondents. Learned counsel appearing on behalf of
the Appellant submits that all the Respondents, in fact, were served,

and therefore, the observation made by the learned Single Judge in the impugned order is not correct.

2. It is submitted that so far as Defendant No. 7 is concerned, the Appellant / Plaintiff has withdrawn the suit against Defendant No. 7, which fact has been recorded by this Court in order dated 25th August, 2014. Therefore, Respondent No. 7 / Defendant No. 7 may be deleted from the array of parties. The Appellant has already filed affidavit of service stating therein that all the Defendants were, in fact, served. It appears that the observation made by the learned Single Judge, in paragraph 2 of the impugned order, is incorrect. Impugned order is, therefore, set aside. Notice of Motion No. 1324 of 2011, against Defendants / Respondents except Defendant No. 7, is restored to the file. Appeal is accordingly allowed and disposed of in the aforesaid terms.

[REVATI MOHITE DERE, J.]

[V. M. KANADE, J.]

Vinayak Halemth