

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
LEAVE PETITION NO.122 OF 2015
WITH
NOTICE OF MOTION NO.965 OF 2015
IN
SUIT NO.507 OF 2015**

Sabmiller India Ltd.	...	Plaintiff
versus		
Lilasons Breweries Ltd.	...	Defendant

Mr. Hiren Kamod i/by M/s. W.S.Kane and Co., for Plaintiff.
None for Defendant.

CORAM: S.J. KATHAWALLA, J.
DATE: 11th AUGUST, 2015

PC.:

1. None for the Defendant. The Petition seeking leave under Clause XIV of the Letters Patent, which is served on the Defendant, is allowed.
2. Perused the order dated 16th June, 2015 and the Court Receiver's Report dated 1st July, 2015. For reasons stated in the order dated 16th June, 2015, the Notice of Motion is allowed in terms of prayer clause (a). The Plaintiff has also made out a case of passing off against the Defendant, as more particularly set out in paragraphs 4 and 9 to 11 of the Plaint. In view thereof, the Notice of Motion is allowed in terms of prayer clauses (a) and (b), which are reproduced hereunder :

“(a) that pending the hearing and final disposal of the suit, the Defendant by itself, its directors, servants, agents, stockists, distributors, dealers and all persons claiming through it be

restrained by a temporary order and injunction of this Hon'ble Court from infringing the Plaintiff's registered trade mark bearing Nos.436744 and/or 1521743 both in class 32 by using in relation to beer the trade mark "LILA'S 50000" shown at Exhibits "J1" and "J2" to the Plaintiff or any trade mark containing the numeral "50000" or "5000" or any other trade mark deceptively similar to the Plaintiff's registered trade mark Nos.436744 and/or 1521743 both in class 32 or in any other manner whatsoever;

(b) that pending the hearing and final disposal of the Suit, the Defendant by itself, its directors, servants, agents, distributors and dealers, be restrained by a temporary order and injunction of this Hon'ble Court from manufacturing, selling, marketing, distributing, trading, exhibiting for sale or advertising beer or the like goods bearing the trade mark "LILA'S 50000" shown at Exhibits "J-1" and "J-2" to the Plaintiff or any trade mark containing the numeral "50000" or "5000" or any other trade mark deceptively similar to the Plaintiff's trade mark "HAYWARDS 5000" so as to pass off or enable others to pass off the Defendant's beer as and for beer of the Plaintiff or in any other manner whatsoever; "

3. The Plaintiff to serve the Writ of Summons on the Defendant, made returnable on 14th September, 2015.

(S.J.KATHAWALLA, J.)