

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
LEAVE PETITION NO. 200 OF 2015
IN
SUIT (L) NO. 893 OF 2015**

Kalpataru Properties Pvt. Ltd.	...Plaintiffs
<i>Versus</i>	
Kalpataru Group & 4 Ors.	...Defendants

**Dr. V. V. Tulzapurkar, Senior Advoate, with Mr. Adheesh
Nargolkar, Smriti Yadav, Alisha Ganjawala, Adhiti Chavan,
Suneet Tyagi, i/b Khaitan & Co., for the Plaintiffs.
Mr. Uttam Parmar, for the Defendant No.2.**

**CORAM: G.S. PATEL, J
DATED: 10th September 2015**

PC:-

1. This is the Petition under Clause XIV of the Letters Patent to combine a cause of action in passing of with an action in infringement. The Plaintiffs have their registered office in Bombay. Clearly, therefore, in view of the provisions of Section 134 of the Trade Marks Act, 1999 and in view of the decision of the Supreme Court in *Indian Performing Rights Society v Sanjay Dalia*,¹ the Court

¹ (2015) 63 PTC 1 (SC)

has jurisdiction in relation to that part of the cause of action. As regards the cause of action in passing off, the Respondents to the Petition, i.e., the Defendants to the Suit, are situated outside Mumbai. The acts of passing off are said to have been committed outside the jurisdiction of this Court. It is on this basis that leave is sought under Clause XIV.

2. Again, in view of the decision in *Sanjay Dalia*, as also the decision of a learned Single Judge (S. J. Kathawalla J.) of this Court in *Jagdish Gopal Kamath and Ors v Lime & Chilli Hospitality Services P. Ltd.*² and *Ultra Tech Cement Limited and Anr. v Shree Balaji Cement Industries and Ors.*³ the Petition is made absolute in terms of prayer clause (a).

(G. S. PATEL, J.)

CERTIFICATE

“Certified to be a true and correct copy of the original signed Judgment/Order.”

² 2014 (3) Bom CR 446 : 2013 (4) Mh LJ 627

³ 2014 (58) PTC 1 (Bom)