

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

**NOTICE OF MOTION NO.1614 OF 2015
IN
SUIT NO.320 OF 2014
WITH
SUIT NO.320 OF 2014**

Dabur India Ltd. ... Plaintiff
versus
The Indian Cancer Society and Ors. ... Defendants

Mr. Naushad Engineer with Mr. Durgaprasad i/by M/s. PDS Legal, for Plaintiff.
Mr. Freddun Devitre, Senior Advocate with Mr. Aditya Thakkar Mr. Murtuza
Federal, Ms. Hiral Thakkar i/by M/s. Federal and Rashmikant, for Defendants.

CORAM: S.J. KATHAWALLA, J.

DATE: 21st NOVEMBER, 2015

P.C.:

1. The Plaintiff shall be at liberty to move an Application seeking permission to carry out tenanted repairs in the suit premises before the Small Causes Court in the pending Suit being TE&R Suit No.5/7 of 2014. Though, such Application if filed, shall be decided on its own merits, the Defendants herein agree that they shall not contend before the Small Causes Court that the Plaintiff being party Defendant to TE & R Suit No. 5 / 7 of 2014 is not entitled to seek ad-interim / interim reliefs in that Suit. The present Notice of Motion is accordingly disposed off.

2. The following issues are framed in the above Suit as Preliminary Issues under Section 9A of the Code of Civil Procedure, 1908 :

(i) Whether this Court has jurisdiction to entertain and try the present Suit ?

(ii) Whether the Suit as filed is barred by the Law of Limitation ?

3. The Plaintiff to file their Affidavit of Evidence, Affidavit of Documents and Compilation of Documents only to the extent of aforesaid issues within a period of six weeks from today. The Defendants too shall file their Affidavit of Documents and Compilation of Documents within six weeks from today. Stand over to 05-01-2016.

(S.J.KATHAWALLA, J.)