

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO.129 OF 2015
along with
CIVIL APPLICATION NO.165 OF 2015
along with
CIVIL APPLICATION NO.964 OF 2015
in
APPEAL FROM ORDER NO.129 OF 2015**

M/s.Ecolab Food Safety and Hygiene
Solutions Pvt. Ltd. .. Appellant/Applicant

Vs.

M/s.Antrix Hygiene Ltd. & Ors. .. Respondents

Mr.Rajesh Datar i/by Mr.Rahul Oak for the appellant/ applicant.
Mr.Umesh Shetty a/w Ms.Sharila D'Souza i/by Ms.Sonali Kochar for
the respondents.

CORAM : R.D. DHANUKA, J.

DATE : 2nd March 2016

P.C.

. By consent of the parties, following order is passed :-

- (i) The defendant no.2 is permitted to file additional affidavit in support of their plea under Section 9A of the Code of Civil Procedure, 1908 within one week from today and a copy thereof shall be served upon the plaintiff's advocate simultaneously;
- (ii) The plaintiff is permitted to file a rejoinder to such additional affidavit and the plea already raised in the earlier affidavit-in-reply within two weeks from the date of service of the additional affidavit-in-reply and a copy thereof shall be served upon the advocate representing the defendant no2;
- (iii) The defendant nos.1 and 3 are also permitted to file an affidavit in the Notice of Motion No.2770 of 2014 if they so desire to raise

an objection under Section 9A of the Code of Civil Procedure, 1908 within two weeks from today and a copy thereof shall be served upon the plaintiff's advocate simultaneously;

- (iv) The plaintiff is permitted to file rejoinder to the said affidavit-in-reply within two weeks from the date of service of the such affidavit-in-reply to be filed by the defendant nos.1 and 3;
- (v) It is made clear that the learned trial Judge shall decide the issue under Section 9A of the Code of Civil Procedure, 1908 raised by the defendant no.2 and if raised by the defendant nos.1 and 3 on the next adjourned date and in any case not later than 6th April 2016;
- (vi) Based on the outcome of the said objections raised by the defendant no.2, the learned trial Judge shall decide the Notice of Motion No.2770 of 2014 expeditiously and not later than three months from the date of disposal of the objection under Section 9A;
- (vii) Ad-interim order granted by the learned trial Judge on 23rd December 2014 to continue till disposal of the said notice of motion and for a period of two weeks thereafter;
- (viii) It is made clear that this Court has not expressed any views on merits of the matter;
- (ix) All contentions of the parties are kept open.

2. Appeal from order is disposed of in aforesaid terms. In view of disposal of the appeal, civil applications do not survive and the same are accordingly disposed of. No order as to costs.

R.D. DHANUKA, J.