

SHEPHALI

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 1015 OF 2015
IN
SUIT NO. 505 OF 2015
WITH
RESTORATION APPLICATION NO. 789 OF 2015
IN
CHAMBER SUMMONS NO. 1015 OF 2015
IN
SUIT NO. 505 OF 2015
WITH
NOTICE OF MOTION NO. 1577 OF 2015
IN
SUIT NO. 505 OF 2015**

Borivali Biryani Centre

...Plaintiff

Versus

Marriott International INC & 2 Ors.

...Defendants

Mr. Mehul Shah, a/w Snehal Dukhale, for the Plaintiff.

**Ms. Ashwini Balayan, a/w Ms. Sheja E., i/b D. G. Dhanure, for
Defendants Nos. 1 and 2.**

CORAM: G.S. PATEL, J

DATED: 15th July 2016

PC:-

1. Heard. This is the 1st Defendant's Chamber Summons seeking that it be deleted from the Suit. The reason given is that in

this trade mark infringement and passing off action, it is not the 1st Defendant that is using the mark. The 1st Defendant is also not the proprietor of the impugned mark. The use is by the 2nd Defendant. The 2nd Defendant is a licensee from the 3rd Defendant.

2. Mr. Shah for the Plaintiff points out that the 1st Defendant is actually the grand-parent holding company; it owns the 3rd Defendant, and it is the 3rd Defendant than in turn owns and controls the 2nd Defendant.

3. I do not think that it is possible, in these circumstances, to allow the Chamber Summons. At the same time, all contentions of the Defendants as joinder or non-joinder must be kept expressly open to the final hearing of the Suit.

4. Keeping all these contentions open, the Chamber Summons is dismissed. There will be no order as to costs.

(G. S. PATEL, J.)