

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 315 OF 2016
AND
NOTICE OF MOTION NO. 1047 OF 2016**

Saleem Sarang & Anr.	...Plaintiffs
<i>Versus</i>	
Hollywood Optical Gallery & 2 Ors.	...Defendants

Mr. A. Daver, *a/w Ms. Samindra Surve and Mert Sampat, i/b Little & Co., for the Plaintiffs.*
Mr. Vinod Bhagat, *a/w MR. Dhiren Kavania, i/b M/s. G. S. Hegde & V. A. Bhagat, for Defendants Nos. 2 and 3.*

CORAM: G.S. PATEL, J
DATED: 11th April 2016

PC:-

1. Mr. Bhagat states that he has changed the impugned mark or label and removed the word "Hollywood". Mr. Bhagat also states that there is no entity by the name M/s. Hollywood Optical Gallery shown as Defendant No.1. Leave to amend without need of reverification to delete the name of the 1st Defendant from the cause title. Amendment to be carried out forthwith in Court.

2. An image of the remaining Defendants' proposed trade dress/mark/trade name is shown to Mr. Daver for the Plaintiffs. On instructions, he confirms that this is acceptable to the Plaintiffs. A copy is taken on record and marked "X" for identification.

3. The statement made by Defendants Nos. 2 and 3 that they have changed their trade dress/mark/trade name to the one shown in the image marked "X" is accepted as undertaking to the Court. Also accepted as an undertaking to the Court is the Defendants' statement that they will not use Plaintiffs' mark or a mark similar to it for their business. The 3rd Defendant is personally present in Court and is identified by Mr. Bhagat.

4. In view thereof, the Plaintiffs do not press their claim for damages. They seek leave to withdraw the Suit. On these statements being accepted as undertakings to the Court, the Suit is allowed to be withdrawn.

5. Refund of Court fees, if any, in accordance with Rules.

6. In view of this, the Plaintiffs' Notice of Motion does not survive and is disposed of accordingly.

(G. S. PATEL, J.)