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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1256 OF 2016
IN
SUIT NO. 732 OF 2014**

Naresh Dayalal Barot ...Plaintiff

Versus

Bharat Marketing & Company & Another ...Defendants

Mr. B.N. Poojari, *for the Plaintiff.*

CORAM: G.S. PATEL, J

DATED: 19th September 2016

PC:-

1. There was an ad-interim order dated 9th April 2014. The Defendants have since been served. They have filed a Written Statement. I have also note that by a subsequent order dated 29th April 2014, the ad-interim order was continued until further orders.

2. There is no Affidavit in Reply to the Notice of Motion. There is, however, the Written Statement, the principal defence in which seems to be that the two marks are entirely different. This is not correct. A look at the two rival labels shows that the Defendants have slavishly adopted the Plaintiffs' mark as also the artistic work

and trade dress. Every one of the key elements in the trade dress is used by the Defendants.

3. As noted in the previous ad-interim order, against which there has been no Appeal and which has not been recalled or set aside at any time, there is an express finding, albeit at a *prima facie* ad-interim stage, that there is a clear case in infringement. I find no reason to disagree. The ad-interim orders of 9th April 2014 and 29th April 2014 are confirmed as final orders on this Notice of Motion.

4. In addition, the Plaintiffs will be entitled to recover the actual costs of this Notice of Motion at the final hearing of Suit.

(G. S. PATEL, J.)