

SHEPHALI

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 508 OF 2015
AND
NOTICE OF MOTION NO. 992 OF 2015**

Farid Abdul Latif Noorani ...Plaintiff
Versus
Applebees Hospitality LLP & 6 Ors. ...Defendants

Mr. Hemant Thadhani, *i/b Krishna & Saurastri Associates, for the Plaintiff.*
Mr. D. A. Dwivedi, *for Defendants Nos. 1 to 6.*
Mr. Vakul Sharma, *i/b Rajlaxmi, for Defendant No. 7.*

CORAM: G.S. PATEL, J
DATED: 13th July 2016

PC:-

1. Heard. As far as the question of transfer of the domain name is concerned, the 7th Defendant, pursuant to the previous order dated 17th June 2016, has effected the necessary transfer to the name of the Plaintiff. This having been done, the Plaintiff seeks to withdraw the Suit against the 7th Defendant. The Suit is dismissed as withdrawn against the 7th Defendant.

2. On behalf of Defendants Nos. 1 to 6, a statement is made that they are not using the Plaintiff's Trade Mark Nos. 1933379 and 563477 or any other marks deceptively similar thereto. The Advocate for these Defendants states that they have adopted an entirely different and new mark, viz., "Bombay Creams". They agree that they will not use the mark "Hajiali Cream Centre" or use in any manner the images annexed at Exhibit "G" to the Plaint or contained in the artistic work that appears on the Plaintiff's website. They also agree that they will not use the mark "Hajiali Cream Centre" with or without any pictorial device hereafter, unless permitted to do so in writing by the Plaintiff.

3. Learned Advocate for the Plaintiff submits that the Suit itself can be disposed of on these statements being accepted. The aforesaid statements by Defendants Nos. 1 to 6 are accepted as undertakings to the Court.

4. The Suit is disposed of in these terms, with no order as to costs. Refund of Court fees in accordance with the Rules.

5. Drawn up decree or order dispensed with.

6. In view thereof, the Notice of Motion does not survive and is disposed of as infructuous.

(G. S. PATEL, J.)