

SHEPHALI

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1414 OF 2016
IN
SUIT NO. 460 OF 2016**

Meher Distilleries Private Limited	...Plaintiff
<i>Versus</i>	
Veekay Distilleries Limited	...Defendant

Mr. Himanshu Kane, *i/b W. S. Kane & Co., for the Plaintiff.*
Dr. Birendra Saraf, *a/w Ms. Tanmayee Rajadhyaksha, Ms. Pooja*
Kshirsagar, i/b S. J. Khera, for the Defendant.

CORAM: G.S. PATEL, J
DATED: 27th July 2016

PC:-

1. Dr. Saraf for the Defendants, points out that the Plaintiffs had previously filed Suit (L) No 845 of 2014 against these very Defendants for the same reliefs. On 3rd September 2014, the Defendants submitted to a decree in terms of prayer clauses (a), (b) and (c) of that suit.

2. The present Suit seeks substantially the same reliefs in respect of the same goods, i.e., glass bottles embossed with the Plaintiffs' logo and mark. The difference perhaps is that since 2014,

the Plaintiff has acquired registration for that logo embossed on the Plaintiff's bottles.

3. There is no reason why the present Suit should not be decreed in similar terms, i.e., prayer clauses (a), (b) and (c). I note Dr. Saraf's statement that subsequent acts of alleged infringement, if any, were inadvertent and the Defendants are abide by the decree passed on 3rd September 2014. The statement as to the infringement being inadvertent is disputed by Mr. Kane. Whether or not this has a bearing on Mr. Kane's claim for damages is left open to the trial of the suit.

4. In view of the statement made by the Defendants, the suit is decreed in terms of prayer clauses (a), (b) and (c). The prayer for damages survives. All contentions are left open, including as to maintainability of this suit.

5. The Notice of Motion is also disposed of in view of the above with no order as to costs.

6. The goods seized by the Court Receiver, i.e., the empty bottles with the Plaintiff's embossed mark will be handed over to the Plaintiff within a period of twelve weeks from today.

(G. S. PATEL, J.)