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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 431 OF 2014
WITH
NOTICE OF MOTION NO. 1874 OF 2016

ITC Limited	...Plaintiff
<i>Versus</i>	
NTC Industries Ltd. & Nilopta DEB & 4 Ors.	...Defendants
<i>And</i>	
Mr. Nilotpal Deb & Others	...Respondents

Mr. Ashish Kamat, *a/w Mrs. Tanmayi Rajadhyaksha, Mr. Nimish Kothare, Mr. Nikhil Mutha and Ms. Priyanka Gidh, i/b Nanu Hormasjee & Co., for the Plaintiff.*

Mr. Janak Dwarkadas, *Senior Advocate, a/w Mr. Amit Thakkar, Mr. Mayur Gala, i/b Gordhandas & Fozdar, for the Defendants.*

CORAM: G.S. PATEL, J
DATED: 10th August 2016

PC:-

1. In this matter, I had passed an order in favour of the Plaintiffs in Notice of Motion No. 662 of 2014. The Defendant filed Appeal No. 188 of 2016 against that order. Thereafter, the Plaintiffs were compelled to file Notice of Motion No. 1874 of 2016 under Order 39 Rule 2A and Rule 11 of the Code of Civil Procedure, 1908.

2. It now seems that these parties have finally settled all their disputes, at least in the present proceedings. Consent Terms are tendered. These are signed on behalf of the Plaintiff by one Mr. Sauhad Saran and on behalf of the Defendant by one Mr. Premchand Khator.

3. I have considered the Consent Terms. They are not contrary to law. I am satisfied that they reflect the parties' true intention and have been drawn by the parties of their own volition. In these Consent Terms, the Defendants have submitted to a decree in terms of prayer clause (a) to (h) and (j) of the plaint. In view of this, the Plaintiffs have not pressed their claim for damages. The Consent Terms are taken on record and marked "X" for identification. The undertakings in the Consent Terms are accepted as undertakings to the Court.

4. The Suit itself is disposed of in accordance with the Consent Terms. Drawn up decree dispensed with.

5. Refund of court fee, if any, is to be donated to the Indian Cancer Society. The Plaintiffs undertake to apply for a refund within four weeks from today.

6. All pending interim proceedings are infructuous and are disposed of accordingly.

7. In view of the Defendants having submitted to a decree, the Appeal itself from the interim order is also infructuous and Clause

(13) contain an undertaking that the Defendants will withdraw that Appeal within four weeks from today.

8. This leaves the question of Notice of Motion No. 1874 of 2016 under Order 39 Rule 2A and Rule 11 of the Code of Civil Procedure, 1908. In that Notice of Motion, I issued notice. In view of the Defendants submitting to a decree, the Plaintiffs are not pressing this Notice of Motion either. However, this is essentially a matter between the Defendants and the Court at this stage.

9. I am willing to discharge the notice and will order it to stand discharged provided that within two weeks from today, the Defendants and the Respondents file individual Affidavits expressing and setting out their respective unconditional apologies.

10. The Suit is disposed of in these terms with no order as to costs.

(G. S. PATEL, J.)