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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL SUIT (L) NO. 13 OF 2016
WITH
NOTICE OF MOTION (L) NO. 16 OF 2016**

Hindustan Unilever Limited	...Plaintiffs
<i>Versus</i>	
Gajanan Products	...Defendant

Mr. Ashutosh Kane, *with Mr. N. Sharma, i/b W.S. Kane & Co., for the Plaintiffs.*
Mr. K.D. Shah, *for the Defendant.*
Mr. Bandu Patil, *Proprietor of the Defendant, present.*

CORAM: G.S. PATEL, J
DATED: 29th July 2016

PC:-

1. Mr. Shah appears for the Defendant. Mr. Bandu Patil, the proprietor of the Defendant, is personally present in Court. He personally gives an undertaking in terms of prayer clauses (a) and (b) of the Suit. This is accepted as an undertaking to the Court. He clarifies that he has discontinued use of the impugned packaging¹ and states that he will not use such a layout or artwork or one

1 Plaint, Exhibit “D-1”, p. 39.

deceptively similar to that of the Plaintiffs² at any time in future. This is also accepted as an undertaking to the Court.

2. In view of these statements, Mr. Kane does not press his prayer for damages.

3. The Suit is disposed of in these terms. Drawn up order is dispensed with.

4. Refund of court fee, if any, in accordance with the Rules.

5. The Court Receiver had seized certain goods. The packets will be destroyed by the Defendant at his cost in the presence of the Plaintiffs' representatives within a period of four weeks from today. It is clarified that the Defendant is at liberty to use the contents of these packets.

6. The Court Receiver stands discharged without passing accounts, but on payment of his costs, charges and expenses by the Plaintiffs within a period of four weeks from today.

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

8. All concerned to act on an authenticated copy of this order.

2 Plaint, Exhibits "B-1" and "B-2", *pp.* 35-36.

9. There seems to be an error in the Registry in insisting that this Suit be filed in the Commercial Division under the Commercial Courts Act. The claim in damages is only Rs. 5 lakhs. This is beneath the pecuniary limit for the applicability and operation of that Act. The Registry is directed to permit the Plaintiffs to renumber the Suit as a Regular Civil Suit as also the Notice of Motion as a regular Notice of Motion.

10. As a general rule, it is clarified that not all intellectual property right matters are automatically to be brought as commercial suits under the Commercial Courts Act. The applicability of that Act will depend not only upon the cause of action but also on the pecuniary limits. Both conditions must be satisfied for that Act to apply.

11. Place a copy of this order before the Prothonotary & Senior Master and Registrar (Judicial-I) for necessary directions to be issued to the officers concerned in the registry.

(G. S. PATEL, J.)