

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO.1715 OF 2011
WITH
NOTICE OF MOTION NO.1855 OF 2012
IN
SUIT NO.1270 OF 2011**

Neelam Finance (Bombay) Pvt. Ltd.Plaintiff

V/s.

Venugopal S. Garodia and Ors.Defendants

**WITH
COUNTER CLAIM NO.23 OF 2012
IN
SUIT NO.1270 OF 2011**

Venugopal S. Garodia and Ors.Plaintiffs

V/s.

Neelam Finance (Bombay) Pvt. Ltd. & Ors.Defendants

Mr. Nitin Thakkar, senior advocate a/w. Mr. Paresh Shah and Ms. Rishika Jhaveri i/b. Shah and Sanghvi for the plaintiff in S/1270/2011.

Mr. Arif Bookwalla, senior advocate a/w. Ms. Tanvi Gandhi and Ms. Nupur Desai i/b. Markand Gandhi and Co. for the defendant nos.1,4,6 and 7 and for the plaintiffs in CC/23/2012.

Mr. Parag Shah i/b. Mahesh Shah and Co. for the defendant no.2.

**CORAM : K.R.SHRIRAM,J
DATE : 26th October, 2016**

P.C.:-

1 The counsel for the plaintiff in suit and counsel for the plaintiffs in counter claim state that the suit and counter claim as against defendant no.5 be dismissed for want of prosecution.

2 Therefore, the suit and the counter claim as against defendant no.5 stand dismissed for want of prosecution.

3 Appearing counsel state that the suit and the counter claim have been settled between the parties and all the parties except defendant no.3 in the suit and counter claim have signed the consent terms dated 26th October, 2016. As regards defendant no.3, the counsel for the plaintiff in suit and counsel for the plaintiffs in counter claim state that the copy of the plaint and writ of summons has been served upon defendant no.3 and defendant no.3 has not filed any written statement in the suit as well as in the counter claim. On 29th September, 2016 it was made clear that if defendant no.3 does not remain present, the suit will be decreed ex-parte as against defendant no.3. Though in the said order defendant no.2 is also mentioned, defendant no.2 has appeared today and signed the consent terms.

4 Therefore, the suit as against defendant no.3 stands decreed. As regards counter claim, Mr. Bookwalla, senior counsel for the plaintiffs to the counter claim states that the counter claim be dismissed as against defendant no.3 in view of this consent terms.

Therefore, the counter claim as against defendant no.3 stands dismissed.

5 The consent terms signed by the parties except defendant no.3 and their respective advocates is taken on record and marked 'X' for identification. All undertakings given in the consent terms are accepted and so ordered. Both the counsel confirm that the parties to the consent terms are present in court and identify each one of them.

6 The suit and the counter claim stand disposed in accordance with the consent terms. Refund, if any of court fees in accordance with rules.

7 All interim applicants stand disposed. Interim orders, if any also stand vacated.

(K.R.SHRIRAM,J)