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

***APPEAL (L) NO.487 OF 2015
IN
NOTICE OF MOTION NO.1060 OF 2012
IN
SUIT NO.1423 OF 2011***

Ramprakash Balkishan Chandak	...Appellant
Versus	
Shyam Balkishan Chandak and Ors.	...Respondents

Mr.Ramprakash Balkishan Chandak, Appellant in person.

Mr.P.M.Shah a/w M.K.Tanna, for the Respondent No.1

***CORAM : V. M. KANADE &
REVATI MOHITE DERE, JJ.***

DATE : 24th FEBRUARY, 2016

P.C. :

1. Heard the appellant who is appearing in person.
2. The appellant is aggrieved by order dated 11th October, 2013 passed by the learned Single Judge on the Notice of Motion taken out by the respondent no.1/plaintiff seeking dismissal of the suit on the ground

that leave under Clause-XII of Letters Patent was not taken before filing of the Suit on 20th September, 2010.

3. We have heard the appellant who is appearing in person. He has relied on the Judgment of the Division Bench of this Court in the case of ***Quadricon Private Limited vs Shri Bajrang Alloys Limited, delivered on 17th March, 2009 in Appeal No.215 of 2008.*** The learned Single Judge after going through the same came to a conclusion that the ratio of the judgment in the case of ***Quadricon Private Limited (Supra)*** is not applicable to the present case.

4. The learned Single Judge in our view has rightly held that a distinction will have to be made between lodgment of a suit and admission of the suit and only if it is shown that leave is obtained after the suit was admitted then in such a case leave could not have been obtained after the admission of the suit.

5. In the present case, the learned Single Judge has observed that though the suit was lodged on 20th December, 2010, it was admitted on 21st

June, 2011. He had observed that leave under Clause-XII of the Letters Patent was obtained before this date.

6. We do not see any infirmity in the order passed by the learned Single Judge and consequently dismiss the appeal.

7. Interim relief, if any, stands vacated.

REVATI MOHITE DERE, J.

V.M. KANADE, J.