

SHEPHALI

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1436 OF 2013
IN
SUIT NO. 765 OF 2013

Mrs. Sushila Shankar Poojari ...Plaintiff
Versus
Shivsagar Pure Veg. Restaurant ...Defendant

Ms. Priyanka Kothari, *a/w Ms. Usha Chandrasekharan, i/b Suvarna Joshi, for the Plaintiff.*

Mr. Ajit Karwande, *i/b Nitin Ghawre, for the Defendant.*

Mr. Satish Shetty, *husband of the proprietor of the Defendant, present.*

CORAM: G.S. PATEL, J

DATED: 13th July 2016

PC:-

1. On taking instruction from Mr. Satish Shetty, the husband of the proprietor of the Defendant, Mr. Karwande states that the Defendant will by 6th January 2017, cease all use of the mark **Shiv Sagar** and that the Defendant will not thereafter use the impugned mark or any other similar mark which would have the effect of passing off the Defendant's business as that of the Plaintiff's. Mr. Karwande says, and Ms. Kothari for the Plaintiff confirms, that the Defendant has changed the logo that it was using. Therefore, the question of copyright infringement no longer survives. The

Defendant also undertakes not to use that logo or any other logo similar to it again.

2. The statements made on behalf of the Defendant are accepted as undertakings to the Court. The Suit is disposed of in these terms with no order as to costs. Drawn up decree or order is dispensed with.

3. Refund of Court fees in accordance with the Rules.

4. In view of this order, Notice of Motion does not survive and it is disposed of accordingly.

5. Since the Defendant proposes to change the name of his business after 6th January 2017, all licensing and other authorities are directed to expeditiously process the Defendant's applications for a name change. They are to act on an authenticated copy of this order.

6. Mr. Ghawre undertakes to file his vakalatnama on or before 18th July 2016.

(G. S. PATEL, J.)