

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

WRIT PETITION NO. 336 OF 2014

Swaraj Industrial and Domestic	}	
Appliances Private Limited	}	Petitioner
versus		
The Government of India and Ors.	}	Respondents

Mr. B. N. Poojari with Ms. Dhanashree Talhure i/b. M/s. Asian Patent Law for the Petitioner.

Ms. Shehnaz V. Bharucha with Mr. Pradeep S. Jetly for Respondent Nos. 1 and 2.

Mr. Hemant Singh with Ms. Mamta Jha, Mr. Nikhil Sharma, Mr. Rishi Mody and Ms. Rashmi Rajan i/b. M/s. W. S. Kane and Co. for Respondent No. 3.

**CORAM :- S. C. DHARMADHIKARI &
G. S. PATEL, JJ.**

DATED :- FEBRUARY 24, 2016

P.C. :-

1) After the Petition was argued for sometime, Mr. Poojari learned Advocate appearing for the Petitioner, on instructions, seeks leave to withdraw this Petition with liberty to raise all points, pleas and grounds as are raised in the Writ Petition, in the pending Suit. Meaning thereby, the Petitioner should be permitted to rely on such materials as are permissible in law in order to defend the Suit effectively.

2) Considering that the Petitioner has challenged the order passed by the Senior Examiner of Trademarks and which is reversed by the Intellectual Property Appellate Board, but the contesting Respondent having brought in a Suit in the competent Civil Court and which is pending and in which evidence is being recorded, we clarify that the Petitioner shall be at liberty to produce such materials as are permissible in law and rely on them in the pending Civil Suit. Equally, we clarify that all objections to the contrary of Respondent No. 3 are also open. While we allow the Writ Petition to be withdrawn and by recording the statement of Mr. Poojari, we clarify that we have not expressed any opinion on the rival contentions. Equally, no opinion is rendered on the merits of the controversy nor the procedure to be adopted and permissible in law during the course of trial of the Suit. Hence, there is no question of any prejudice being caused to Respondent No. 3 nor its objections, which may be raised, which are capable of being raised before the Trial Court. The Trial Court shall deal with the issue, if raised by the Petitioner, on its own merits bearing in mind the objections of Respondent No. 3.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)