

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
LEAVE PETITION NO. 149 OF 2015
IN
SUIT [L] NO. 689 OF 2015**

Sopariwala Exports & Anr.	...Petitioners
<i>Versus</i>	
Firdoshhussain M Malik	...Respondent

Dr Birendra Saraf, a/w Smriti Yadav & Raj Rao i/b Khaitan & Co.,
for the Petitioners.
Mr Mandar Soman, i/b Archana Singh, for the Respondent.

CORAM: G.S. PATEL, J
DATED: 24th November 2017

PC:-

1. Heard.

2. From 1st October 2015 onwards, for the better part of that year, repeated applications were made and at least five orders were passed at the instance of the plaintiffs seeking protection in trademark and copy right infringement. Even prior to that, there were orders of 10th July 2015 and 20th July 2015 of SJ Kathawalla J.

3. The defendant is now in appeal and there it is sought to be contended that the consignment with the infringement marks as set

out by the defendant had passed into the hands of a third party consignee and, therefore, the reference in my orders to a consignee being a sister concern of the defendant is incorrect.

4. Given the number of times this matter was placed before me and having regard especially to what is stated in paragraphs 7 and 8 of order dated 1st October 2015, I have no hesitation in clarifying that at the relevant time the reference to the consignee was to Zarinawala Exports Private Limited. This is, *inter alia*, evident from the fact that as early as 16th May 2015, there were shipping documents that showed Zarinawala Exports Private Limited as a consignee. The entire dispute was whether the defendant was in position to arrange the return of the goods. As regards subsequent events, it is a matter noted in my order of 16th March 2016 that the shipping line MAERSK declined delivery to the ultimate purchaser in Damascus. The consequence of this inevitably was that the goods were either with the defendant trading as Zarina Exim or with its sister concern Zarinawala Exports Private Limited and that these goods were lying with Port Authorities in Damascus, Syria.

5. I do not believe that any further clarification is required.

(G. S. PATEL, J)