

JSN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.1870 OF 2012
IN
SUIT NO.1844 OF 2012

Kantaban Zadafiya and others.	... Applicants
<i>In the matter between</i>	
Shri Mahila Griha Udyog Lijjat Papad	...Plaintiff
<i>Versus</i>	
Kantaben Zadafiya and 10 others	...Defendants

Mr. Amit Jamsandekar, i/b S.B. Deshmukh for Plaintiff in NMS No.1870 of 2012 and Applicant in NMS No.1915 of 2012.
None for the Applicant in NMS No.1870 of 2012 and Defendant in NMS No.1915 of 2012.

CORAM: G.S. PATEL, J
DATED: 8th August 2016

PC:-

1. This Notice of Motion is by 1st Defendant for stay of the Suit under Section 10 of the Code of Civil Procedure, 1908. According to the 1st Defendant, there was an earlier Suit bearing No.21 of 2011 filed by the 1st Defendant in the Civil Judge Senior Division Court at Amreli, Gujarat. There are at least four reasons, possibly more, to dismiss the Notice of Motion. The first is, of course, that the 1st Defendant is absent. That is sufficient in itself. However, as Mr.

Jamsandekar for the Plaintiffs points out, the Notice of Motion is clearly misconceived. The Civil Judge Senior Division at Amreli, Gujarat has no jurisdiction to hear an Intellectual Property dispute of this nature. Such a Suit would have to be filed at a minimum in the District Court. Second, the parties are different. Third, the subject matter of that Suit, which assails certain resolutions taken by the Plaintiff society, is entirely different from the subject matter of the present Suit. Actually any one of these reasons is sufficient. All four of them together are unanswerable.

2. The Notice of Motion is dismissed with costs.

3. The Plaintiffs will be entitled to recover the actual costs of defending this Notice of Motion at the time of final hearing of the Suit.

(G. S. PATEL, J.)