

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 195 OF 2015
IN
SUIT NO. 116 OF 2015

Hawa Valves (India) Private Limited	...Plaintiff
<i>Versus</i>	
Hawa Buildcon Private Limited	...Defendant

Mr. Ajit Anekar, *with Mr. Thomas James, i/b M/s. Auris Legal, for the Plaintiff.*
Ms. Suvarna Joshi, *for the Defendant.*

CORAM: G.S. PATEL, J
DATED: 1st April 2016

PC:-

1. Mr. Anekar points out that in paragraphs 7(e), 7(g) and 7(j) of the written statement, the Defendant has made following statements:

“(e) The Defendant is in business of building and construction from the year 2010 onwards and that it has purchased two properties and that there is no other trade or business carried out by them other than real estate affair. Financial status and the balance sheet of the

Defendant show loss and it is not gained any profits by using the trade name or the work Hawa as alleged.

(g) It is reiterated that the trade name Hawa Buildcon would not create any deception nor is there probability of confusion. There is no likely hood that the members of the public at large are likely to be deceived or confused into believing Hawa Valves India Pvt. Ltd. is that of Hawa Buildcon Pvt. Ltd. The balance sheet figure of the Defendant is quite insubstantial as it is running into losses.

(j) Apart from purchasing one property, the Defendant has not carried out any trade activity. The Plaintiffs have not applied for any registration in class 36 and hence cannot claim any exclusive right over the word "Hawa".

2. Mr. Anekar submits that on these statements being accepted, no further reliefs are necessary on the Plaintiff's Notice of Motion. The learned Advocate for the Defendant is in agreement. Accordingly, the statements made in the foregoing paragraphs are accepted.

3. In view thereof, Mr. Anekar does not press for reliefs in the Notice of Motion, which is disposed of with the foregoing observations. There will be no order as to costs.

(G. S. PATEL, J.)