

JSN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (L) NO. 141 OF 2016
IN
COMMERCIAL SUIT NO. 198 OF 2016
AND
COMMERCIAL SUIT NO. 198 OF 2016

Colgate Palmolive Company and Another ...Plaintiffs
Versus
Mr. Arun Vasant Narkar ...Defendant

Mr. Rashmin Khandekar, *with Ms. Preety Singh, Ms. Shruti Katakay, Mr. Varun Satiya i/b Chitnis and Company for the Plaintiffs.*
Ms. Lalita S. Phadke, *with D.A. Bhalerao for the Defendant.*

CORAM: G.S. PATEL, J
DATED: 22nd November 2016

PC:-

1. There was an ad interim order dated 14th October 2016. That order was clarified on 27th October 2016. The Defendant having since been served has filed an Affidavit in Reply. In paragraph 14 of this reply, the Defendant while denying any infringement of the mark and the label states on Affidavit that he is ready and willing to stop and withdraw his product under the impugned design and packing material. The learned Advocate for the Defendant clarifies

that what is agreed to be withdrawn from the market and not produced and manufactured any further is the product as also packaging.

2. Paragraph 14 of the Affidavit in Reply is set out in full:

14. I say and submit that without prejudice the contention that I have not imitated or committed the infringement of copyright and trade mark of the House mark 'Colgate', Design of 'Colgate Super Flexi' and the distinctive label of Plaintiff No.1 and 2, that I am ready and willing to stop and withdraw my product under the impugned colour design of packing material since I have not registered my packing material even though I printed much prior to the Plaintiff's product.

3. In view of this, the ad interim order is confirmed as the final order on the Notice of Motion. The Notice of Motion is disposed of in these terms with no order as to costs.

4. By consent the Suit is taken up for directions. Written Statement to be filed and served on or before 20th January 2017. Discovery and inspection within two weeks thereafter. Suit to be listed for framing issues on 14th February 2017.

(G. S. PATEL, J.)