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

**LEAVE PETITION NO. 235 OF 2015
IN
SUIT (L) NO. 1087 OF 2015**

Kalpataru Properties Pvt. Ltd.	...Plaintiff
VS	
Kalpataru Impex Pvt. Ltd.	...Defendant

.....
Dr Veerendra Tulzapurkar, Sr. Advocate with A. Ganjawala, A. Chavan i/b
Khaitan & Co. for the Plaintiff
Mr Uttam Makanji Parmar for the Defendant.
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CORAM : S.C. GUPTE, J.

FEBRUARY 22, 2016

P.C. :

The leave petition seeks leave under clause 14 of the Letters Patent for combining the cause of action of passing off with that of infringement of a registered trade mark. The ingredients for seeking such leave are made out in the petition. The only defence urged by the Respondent is twofold. Firstly, it is submitted that there is a prior suit filed by the Plaintiff against this Defendant along with others. Secondly, it is submitted that the businesses of two companies, namely, the Plaintiff and the Defendant, are wholly different and the Defendant company has been incorporated as far back as in 1989. These are all matters of merit and do not disclose any defence to an application for leave under clause 14 of the Letters Patent. The Petition is allowed. The Plaintiff is allowed to combine the causes of action of passing off and infringement.

(S.C.GUPTE J.)