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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**NOTICE OF MOTION NO. 120 OF 2016**  
**IN**  
**SUIT NO. 37 OF 2015**

|                                     |               |
|-------------------------------------|---------------|
| Sundaram Multicap Limited           | ...Plaintiffs |
| <i>Versus</i>                       |               |
| Jakharia Book Manufacturing Company | ...Defendant  |

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**None for the Plaintiffs.**  
**Ms. Tanuja Liman, for the Defendant.**

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**CORAM: G.S. PATEL, J**  
**DATED: 11th August 2016**

**PC:-**

1. Ms. Liman for the Defendant states that in fairness she agreed before the Prothonotary & Senior Master on 30th March 2016 to waive service of the writ of summons. What has happened thereafter or during that time is that the Defendant has only been served with the writ of summons but no copy of the plaint has been served on them or on the Advocate for the Defendant at any stage. The Defendant has been unable to file a written statement.
  
2. In the meantime, the Registry has transferred the Suit to the list of undefended suits.

3. I do not see how this can be done. I believe there is a practice note that with the writ of summons a copy of the plaint along with its annexures must be served. If there is not, then there should be. I do not see why the Defendant should have to go around making copies from the Court records. It is the responsibility of the Plaintiffs to serve the Defendant.

4. I do not find an Affidavit of Service on file. This is despite an order dated 27th January 2016 (S.C. Gupte, J.) which permitted the Plaintiffs to renew their application after adequate notice and granted leave to amend the plaint within a period of one week.

5. I am unable to tell what amendment, if any, has been carried out. In fact, it seems to me that no amendment whatsoever has been effected till this date.

6. There is no question of allowing the Plaintiffs to proceed in this fashion.

7. I notice that it is only the Notice of Motion that is listed today. That will certainly be dismissed. The Notice of Motion is dismissed with costs.

8. List the Suit itself for dismissal on the supplementary board tomorrow, 12th August 2016.

**(G. S. PATEL, J.)**