

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5292 OF 2017**

M/s.Cello Household Products & anr. .. Petitioners
Vs.
Bluplast Industries Ltd. ... Respondent

Mr.Hiren Kamod i/b Gautam & Co. for the Petitioners

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: MAY 2, 2017**

P.C. :

1. Not on Board. Upon mentioning, taken on board.
2. This petition is filed as the learned trial Judge in Special Civil Suit No.2 of 2017 under the Designs Act refused to pass an *ex-parte* order on 25.4.2017. The learned Counsel for the petitioners submits that he produced two orders of the learned Judge below exhibit 5 and 6. Order below exhibit 5 is as under:

“None present for the applicant when called. Issue notice to the non-applicants as to why interim order as prayed, shall not be passed”.

3. Order below exhibit 6 is as under:

“None present for the applicant when called. Issue notice to non-applicants”.

4. The learned Counsel submits that the petitioners could not reach in time when the matter was called out and in the meanwhile

the above orders were passed. He submits that this being a case of copying the plaintiffs' registered design, it is necessary for the plaintiffs to secure an ex-parte order otherwise the said impugned product will be sold out in the market and irreparable loss would be caused to the plaintiffs.

5. From the order of the trial Court, it is clear that the matter is now fixed on 5.5.2017. Before that, he wants to argue the case for obtaining ex-parte injunction. I am of the view that an opportunity can be given to the petitioner as he was not given the opportunity of being heard before the notices were issued by the trial Court. The trial Court is, therefore, directed to take the matter on Board tomorrow i.e., 3rd May, 2017 and give an opportunity to the plaintiffs to make submissions on the point of ex-parte injunction. The said matter shall be heard and decided on merits. The matter shall also appear before the trial Court on 5.5.2017, as scheduled.

6. All concerned to act on an authenticated copy of this order.

7. Writ Petition is disposed of accordingly.

(MRIDULA BHATKAR, J.)