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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 416 OF 2016
IN
SUIT NO. 532 OF 2014

Nainraj Enterprises Pvt Ltd ...Plaintiffs
Versus
Mayfair Housing Pvt Ltd ...Defendants

Mr Jitendra Jain, *with Mr Durgaprasad Poojari, i/b PDS Legal, for the Plaintiffs.*

Ms Sneha Patil, *i/b Maniar Srivastava Associates for the Defendants.*

CORAM: G.S. PATEL, J
DATED: 18th January 2017

PC:-

1. This is the Plaintiffs' application seeking that the Defendants' Summary Suit No. 847 of 2012, which is contested by the present Plaintiff and in which leave has been granted, ought to be tagged and clubbed with the present Suit and that both Suits should be heard together.

2. Prayers (b) and (c) seek a stay of the proceedings in the Defendants' Summary Suit and an injunction against them from prosecuting that Suit. Obviously, I cannot grant these prayers and in fairness these are not even pressed before me today.

3. The Affidavit in Support makes it clear that only relief they sought is to club the two Suits. The reasons given are compelling: the parties are the same; the transaction, one of leave and license, is the same; the premises are the same; and the evidence is likely to be the same although the nature of the rival claims and causes of action are different. Perhaps it would be correct to observe at this stage that the plaint in one suit might well have been a counter-claim in the other. It is only chance that two separate suits have come to be filed.

4. In my view, it is clearly in the interest of justice and to avoid delay in the trial that the two suits should be tagged, clubbed and tried together. So ordered.

5. The Summary Suit is currently assigned to the Bench presided over by SJ Kathawalla J. It is at the stage of framing issues. No written statement has been filed in the present Suit. Since both are now clubbed together, both Suits must be listed before the more between these two Courts, i.e., before SJ Kathawalla J.

6. The Notice of Motion is disposed of in these terms with no order as to costs.

(G. S. PATEL, J.)