

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

**NOTICE OF MOTION (L) NO.893 OF 2017
IN
SUIT NO.3444 OF 1994**

D.R.Kavasmaneek

....Plaintiff/Applicant

V/s.

H.Lundback A/s and Ors.

....Defendants

Mr.Rohaam Cama a/w Mr.Vishnu Peri i/by Dhru & Co. for the plaintiff/applicant.

Mr.Ajit Kapadia a/w Mr.Pratik Salgaonkar i/by Crawford Bayley and Co. for the defendants.

CORAM : K.R.SHRIRAM,J

DATE : 17.4.2017

P.C.:-

1 On 20.3.2017 the evidence of PW-1 was closed. Mr.Cama appearing for the plaintiff states that plaintiff has taken out a Notice of Motion bearing (L) No.893 of 2017 to recall the order dated 20.3.2017 closing the evidence of PW-1. Mr.Kapadia appearing for the defendants states that they have been served copy of this Notice of Motion only on Saturday i.e., 15.4.2017 but subject to payment of cost the court can grant relief as sought in the Notice of Motion.

Notice of Motion therefore, is taken up for hearing though not listed, by consent of the parties.

2 The plaintiff to pay sum of Rs.10,000/- as cost by cheque

drawn in favour of the advocate on record for the defendants and this amount to be paid within a period of two weeks from today. Since this cost has been awarded, Mr.Kapadia has no objection to grant reliefs sought in the Notice of Motion.

Notice of Motion disposed in terms of prayer clauses-(a) and (b). Notwithstanding disposal of the Notice of Motion, the plaintiff to remove all office objections and have the Notice of Motion numbered.

3 The plaintiff's first witness Darius Rutton Kavasmaneck (PW-1)-the plaintiff himself is present in court and is administered oath.

Name : Darius Rutton Kavasmaneck

Age : 65 years

Occu. : Business

Address : 626, Parsi Colony, Dadar, Mumbai-400 014.

On S.A.

4 I say that I have affirmed an affidavit dated 15.12.2015 and also identify my signature.

PC :-

5 Mr.Kapadia for the defendants submits that certain portions of the affidavit cannot go in as testimony of the witness and

submits that those portions to be bracketed so that the defendants need not cross-examine the witness on these portions of the affidavit. Mr.Cama for the plaintiff is agreeable. Therefore, portions bracketed in red in paragraph-24, 25 & 26 are excluded from the affidavit.

The affidavit is taken on record and marked **Exh.P1/1.**

6 Stand over to 24.4.2017 at 3.00 P.M.

(K.R.SHRIRAM,J)