

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

**LEAVE PETITION NO.163 OF 2017
IN
COMMERCIAL SUIT (L) NO.225 OF 2017**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Prothonotary's orders	Court's or Judge's orders
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Mr.Ashutosh Kane a/w Mr.Nikhil Sharma i/b
M/s.W.S.Kane and Co. for the petitioner/plaintiff

**CORAM : K. K. TATED, J.
DATE : SEPTEMBER 1, 2017**

P.C.:

1. Heard the learned counsel for the petitioner.
2. Though respondents are duly served, no one appeared on behalf of them when the matter was called out.
3. Office note shows that on 23.8.2017 no one appeared on behalf of respondent defendant. Hence, matter was posted for hearing today. Today also, when the matter was called out, no one appeared on behalf of respondent defendant.
4. This petition is preferred by petitioner under Clause XIV of the Letters Patent for joining the cause of action for passing off with the cause of action of infringement of trade mark and copy right and a combined trial of the all issues be

permitted in the above suit, against the Respondent.

5. In support of this petition, the learned counsel for the petitioner relies on the judgment of this court in the matter of ***Manugraph India Limited & Anr. vs. Simarq Technologies Pvt.Ltd.& Ors., 2016(67) PTC 254 (Bom)*** particularly paragraph 35 and also unreported order dated 28.6.2017 passed by this court (***Coram: K.R.Shriram, J.) in Leave Petition No.39 of 2017 in Commercial Suit (L) No.45 of 2017 Kalpataru Properties Private Limited vs. Sri Kalpataruvu Chits (India) Private Limited and Sri Kalpataruvu Chits (Narasaraopet) Private Limited.***

6. Considering the submission made by the learned counsel for the petitioner and the reason disclosed by them in paragraph 34 of the plaint and as respondent failed and neglected to file their Affidavit-in-Reply and or remain present before this court, I am satisfied that applicant has made out a case for allowing the petition.

7. Hence, following order is passed:

A) Petition is allowed in terms of prayer clause (a) which reads thus:

“(a) that leave be granted to the Petitioner under clause XIV of the Letters Patent of this Hon'ble Court to join together the cause of

action for passing off with the cause of action of infringement of trade mark and copyright and a combined trial of the said issues be permitted in the above suit, against the Respondent.”

(B) No order as to costs.

(K.K.TATED, J.)