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

**CHAMBER SUMMONS NO.43 OF 2016
IN
COMMERCIAL SUIT NO.173 OF 2015**

Nickelodeon India Pvt. Ltd.	...Plaintiff
VS	
Toonz Retail India Pvt. Ltd..	...Defendant

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Mr. Ashish Kamat, a/w. Ms. Megha Chandra, Ms. Madhu Gadodia, Mr. Rahul Mehta and Mr. Himanshu Chaudhary, i/b. Naik and Naik & Co., for the Plaintiff.

Mr. Gaurang Mehta, a/w. Ms. Rhea Mehta, for the Defendant.

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CORAM : S.C. GUPTE, J.

DATED : JUNE 12, 2017

P.C. :

. Heard learned Counsel for the parties.

2. This Chamber Summons is taken out by the Defendant for revocation of leave granted to the Plaintiff under Clause XII of the Letters Patent. The Plaintiff has filed the present suit on the basis of a merchandise licence agreement executed between the parties on 1 July 2010. The dues claimed in the present suit by the Plaintiff are said to have arisen under this merchandise licence agreement. According to the Plaintiff, the merchandise licence agreement was signed by the Plaintiff in Mumbai. The agreement also provides, in terms, that the agreement shall be deemed to have been made and entered into in Mumbai. Secondly, it is submitted that merchandise licence fee is payable by the

Defendant to the Plaintiff in Mumbai. Based on these facts, it is alleged that a substantial part of cause of action has arisen in favour of the Plaintiff within the jurisdiction of this Court, though the agreement is signed by the Defendant outside Mumbai. Based on these pleas, the Plaintiff requested the Court to grant leave under Clause XII of the Letters Patent by presenting a petition under Clause XII, being Petition No.94 of 2015. This Court, by an order dated 6 May 2015, granted such leave.

3. The Chamber Summons seeks an order for revocation of that leave on the ground that the Defendant had not authorised the execution of the agreement and that there is nothing to show that the agreement was executed between the parties in Mumbai. Both these contentions reflect on the merits of the case. Clause XII of the Letters Patent concerns granting of leave for prosecution of the suit in this Court. It is a matter of initial jurisdiction. With such leave, the Court assumes initial jurisdiction to entertain the suit. Of course, at the hearing of the suit, if the averments made in the plaint or, for that matter, in the leave petition by the Plaintiff are found to be untrue, the Defendant may seek dismissal of the suit for want of jurisdiction. That, however, does not call for revocation of leave at this initial stage.

4. The Chamber Summons, accordingly, has no merit and the same is dismissed. Costs to be costs in the cause.

(S.C. GUPTE, J.)