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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.405 OF 2017

IN

COMMERCIAL SUIT NO.526 OF 2017

Chem Seals Engineering Pvt. Ltd.

..Plaintiff.

V/s.

Grace Engineering Ltd.

..Defendant.

Mr.Nitin Raut with Ms.G.P. Vas i/b. P. Vas & Co. for the Plaintiff.

None for the Defendant.

CORAM : K.R.SHRIRAM, J.

DATED : 28 AUGUST 2017

P.C.:-

On 24 May, 2017 ad-interim order was passed restraining Defendant from appointing agent or agents for sale, distribution, servicing, maintainance, stocking of Defendant's products and services in the territory of the Republic of India. The suit filed is for damages claiming sum of US\$ 40,36,807.16.

2. It is the case of the Plaintiff that the Plaintiff was appointed as exclusive agent of Defendant pursuant to an agreement dated 2 September, 2015. The said agreement was terminated by a communication dated 4 May, 2016. By a communication dated 11 May, 2017 the termination was confirmed but Defendant state that they did not have anything against the Plaintiff but just that they have a revised strategy for India.

3. Ad-interim order was extended from time to time for negotiating a settlement. On 31 July, 2017, this Court was pleased to continue ad-interim order until next date but made it very clear that last chance to enable the parties to settle the dispute in the suit and notice of motion was being granted. On 22 August 2017, counsel for the Plaintiff stated that the settlement talks have not fructified positively. The notice of motion, therefore, was listed today for hearing.

4. Plaintiff is seeking injunction restraining the Defendant from terminating the agency. The agreement is dated 2 September 2015 and the termination is dated 4 May 2016. The termination

notice was issued more than fifteen months ago. Moreover, if according to the Plaintiff, the termination was illegal, the Plaintiff will be entitled to claim damages which amount will also be quantified only after the Plaintiff proves that it is entitled to damages. Therefore, in my view, the interim relief sought in the notice of motion cannot be granted. Notice of Motion is dismissed. Interim order granted earlier stands vacated. Registry to take on record affidavit filed by the Plaintiff dated 26 August, 2017.

5. At this stage, Mr.Raut seeks stay of the order. Stay is refused.

(K.R.SHRIRAM, J.)