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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1708 OF 2016
IN
SUIT NO. 445 OF 2015**

Galpha Laboratories Ltd	...Plaintiffs
<i>Versus</i>	
Torque Pharmaceuticals Pvt Ltd	...Defendants

**Mr Rashmin Khandekar, i/b Mr Mahesh Mahadgut, for the
Plaintiffs.**
Ms Karishma Shirke, i/b Gordhandas & Fozdar, for the Defendants.

CORAM: G.S. PATEL, J
DATED: 24th January 2017

PC:-

1. This is the Defendant's Notice of Motion to frame a preliminary issue under Section 9A of the Code of Civil Procedure 1908 on the ground that this Court has no jurisdiction. In paragraph 6 the Defendant claims that neither the Plaintiff nor the Defendant have any presence in Mumbai but both have their manufacturing units in a two km radius of Baddi in Himachal Pradesh, and that the Plaintiff has its place of business in Patna with manufacturing units at Ankleshwar, Gujarat, District Solan, Himachal Pradesh and in Baddi, Himachal Pradesh. This is denied by the Defendants *inter*

alia in paragraph 9 of the Affidavit in Reply where it is claimed that all principal business offices and work is done only in Mumbai.

2. This will need evidence.

3. As to the question of the decision of the Supreme Court in *Indian Performing Rights Society Ltd v Sanjay Dalia*¹ it only needs to be noted that I have considered this decision at some length in *Manugraph India Ltd v Sigmarq Technologies Pvt Ltd & Ors.*²

4. The following preliminary issue is framed.

“Whether this Court has jurisdiction to entertain and try the Suit?”

5. The Plaintiff will file and serve its Affidavit of Evidence, compilation of documents and Affidavit of documents limited to the preliminary issue on or before 17th February 2017.

6. List the matter on 21st February 2017 for marking the Plaintiff’s documents. All this is limited only to the preliminary issue of jurisdiction.

(G. S. PATEL, J.)

1 (2015) 10 SCC 161.

2 Notice of Motion No. 494 of 2014 in Suit No. 516 of 2014, decided on 15th June 2016.