

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

**NOTICE OF MOTION NO. 736 OF 2013
IN
SUIT NO. 1071 OF 2006**

Bharat Aluminum Company Ltd. .. Applicant/Org.Deft.

In the matter between :

Pankaj Aluminum Industries Ltd. .. Plaintiff

Vs.

Bharat Aluminum Company Ltd. .. Defendant

Mr.Ganesh Murthy i/b M/s. K.V. Aiyar and Associates for plaintiff.

Mr.Dhaval A. Patil i/b K. Ashar & Co. for defendant/applicant.

CORAM : K.R.SHRIRAM, J.

DATE : 22ND JUNE, 2017

P.C.

1 The prayer clause (a) in this notice of motion reads as under :

(a) that this Hon'ble Court be pleased to dismiss the above suit in view of the same being barred by res judicata under sec.11 of the Civil Procedure Code, 1908 with respect of principle of Res Judicata.

2 On the ground of *res-judicata*, the defendant had filed earlier notice of motion bearing no.2892 of 1996 and the said notice of motion was withdrawn pursuant to an order dated 27th September 2012 and the order reads as under :

“1. Learned Counsel for the Defendants seeks leave to withdraw the motion with liberty reserved to canvass the issue of res judicata at the time of hearing of the suit.

2. *The Motion is allowed to be withdrawn with liberty as prayed.”*

3 In the circumstances, the notice of motion deserved to be dismissed with costs.

4 The notice of motion dismissed with costs of Rs.25,000/- to be paid by the applicant/defendant to the plaintiff by way of cheque drawn in favour of the Advocate on record for the plaintiff within two weeks from today.

5 The suit be listed on 11th July 2017 for issues on which date, parties to come up with agreed draft issues and a separate list of issues on which they are unable to agree.

(K.R. SHRIRAM, J.)