

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

**NOTICE OF MOTION NO. 506 OF 2016
IN
SUIT NO. 116 OF 2016**

Phonographic Performance Limited .. Applicant

In the matter between :

Phonographic Performance Limited .. Plaintiff

Vs.

Percept Ltd. & Anr. .. Defendants

Ms. Gulnar Mistry a/w. Ms.Kripa Jethva a/w. Ms.Madhvi Deshpande for plaintiff/applicant.

Mr.Venkatesh Dhond, senior advocate a/w. Mr.Parag Khandhar, Ms. Ankita Agarwal i/b DSK Legal for defendant no.1.

Mr.Parag Khandhar a/w. Ms. Ankita Agarwal i/b DSK Legal for respondent in CHSL/1774/2016.

**CORAM : K.R.SHRIRAM, J.
DATE : 10TH JANUARY, 2017**

P.C.

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

“(a) that, pending the hearing and final disposal of the present suit, this Hon'ble Court be pleased to restrain Defendant No.1, whether by itself or through its servants, agents, representatives and/or business entities, by an order and injunction of this Hon'ble Court, from infringing the plaintiff's repertoire in any manner whatsoever, including by communicating to the public the plaintiff's repertoire at the events “Hardwell Live” and “Sunburn Goa 2015” that are organized by Defendant No.1.”

2 On 11th December 2015, an order was passed. Paragraph 1 of the order reads as under :-

“1 The learned Advocate appearing for Defendant No. 1 on instructions undertakes that in the event of this Court holding at the interim stage that Defendant No. 1 is liable to pay to the Plaintiff any amount/s for communicating to the public the Plaintiff's repertoire at the events 'Hardwell Live' and 'Sunburn Goa 2015' organized by them, Defendant No. 1 shall forthwith pay the same to the Plaintiff. The undertaking is accepted.”

3 In the affidavit in reply filed by one Manoj Kumar Patra, affirmed on 24th January 2016, in paragraph 3, it is stated that the defendant is not engaged in the business of organising events as alleged in the suit and in the notice of motion and it is a separate entity Percept Live Private Limited, who was engaged in the business of organizing such concerned events and not the present defendant no.1, i.e., Percept Limited, who is a complete stranger to the events which constitute the basis of the present proceedings.

4 Shri Dhond, on instructions, also confirms that defendant no.1 has not organised the events as alleged in the suit and stand by the undertaking recorded in the order dated 11th December 2015 until the hearing and final disposal of the suit. Statement accepted.

5 In view of the undertaking and statement as recorded and in view of the solemn statement made in the affidavit in reply as noted above, nothing remains in the notice of motion. The notice of motion accordingly disposed.

6 Ms. Mistry states that there is a chamber summons bearing (lodg.) No. 1774 of 2016 for leave to amend the plaint and also to bring on record the respondent therein as defendant to the suit. Defendant no.1 has filed an affidavit in reply. Rejoinder, if any, to be filed within two weeks. Shri Khandhar, counsel for the respondent seeks two weeks time to file reply to the chamber summons. Time granted.

Should the plaintiff wish to file a rejoinder, the same to be filed and copy served within two weeks of receiving the affidavit in reply from the proposed defendant.

7 The chamber summons (lodg.) No. 1774 of 2016 be listed for hearing on 23rd February 2017.

In the meanwhile, all office objections to be removed and chamber summons be numbered.

(K.R. SHRIRAM, J.)