

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

MISC. CIVIL APPLICATION NO. 105 OF 2017

M/s Hakeem Food Products Pvt. Ltd. ..Applicant.

In the matter between :

Chirag International Respondent/Orig.Plaintiff

Vs

M/s Hakeem Food Products Pvt. Ltd. Applicant/Orig.defendants.

WITH

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 660 OF 1996

M/S. Hakeem and Products Pvt. Ltd. .. Plaintiff

Vs.

Chirag International and Ors. .. Defendants

Mr. Farhab Dubash a/with Mr. S.S. Ghosh, Mr. Anirben Sen and Mr. Samarth Choudhary I/by M/s Hariani and Co. for plaintiff in S/660/1996 and for Defendant No.1 in S/684/1992 and for Applicant in MCA/105/2017.

Ms. Archana Tiwari I/by Vijay B. Kanoria for Defendant No. 1, 2 and 5.

Mr. Vijay Thilakan for Defendant No. 3, 4 and 6;

Mr. Ankit Tripathi a/with Ms. Shubham Mittal I/by FF & Associates for plaintiff in S/684/1992.

CORAM: K.R. SHRIRAM, J.

DATE : 24th August, 2018

P.C:-

Misc. Civil Appln.No.105 of 2017 :

1) There is Misc. Civil Application No. 105 of 2017 filed by the applicants under Section 24 of the Code of Civil Procedure, 1908 for seeking transfer of Suit No. 8574 of 1992 which is pending before the City Civil Court at Bombay. Mr. Dubash, Counsel for the applicants points out that both the suits relate to the same MoUs and each party is claiming damages from the other. Mr. Dubash also points out that Suit No. 8574 of 1992 was originally filed by the plaintiff in that suit, who is defendant No.1 in Suit No. 660 of 1996, in this Court and due to increase in pecuniary jurisdiction of the City Civil Court, that suit got transferred to the City Civil Court at Bombay. That suit was originally numbered as Suit No. 684 of 1992 by this Court.

2) There is no affidavit in reply opposing the application. Moreover, as both the suits arise out of the same MoUs plus one another in Suit No. 660 of 1996, issues will be common and the evidence also should be common. The Suit in the City Civil Court, i.e., Suit No. 8574 of 1992 is still at the preliminary stage and I am informed that in that suit even issues have not been framed.

3) In the circumstances, I am satisfied that no prejudice would be caused to any other party if Misc.Application No. 105 of 2017 is allowed in terms of prayer clause (a) which reads as under :

(a) That this Hon'ble Court be pleased to transfer the said BCCC suit pending before the Hon'ble Bombay City Civil Court at Bombay to this Hon'ble Court for being heard and decided by this Hon'ble Court along with the said H.C. Suit pending before this Hon'ble Court.

4) Misc.Civil Application No. 105 of 2017 is accordingly disposed of.

5) All concerned to act on the basis of an authenticated copy of this order.

6) Registry to call for the record and proceedings from the Bombay City Civil Court within two weeks from today and the Bombay City Civil Court shall forward all the record and proceedings within one week on receipt of communication from the High Court Registry. The applicant is also at liberty to forward a copy of this order to the Registrar of the City Civil

Court who upon receiving the same, take steps to transfer the record and proceedings and need not wait for a formal communication from the High Court Registry.

Suit No. 660 of 1996 :-

7) Stand over to 21st September, 2018.

(K.R. SHRIRAM, J.)