

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

**NOTICE OF MOTION NO. 103 OF 2018
IN
SUMMARY SUIT NO. 1380 OF 2000**

M/s.Badani Trading Co. ...Plaintiff/Applicant

Vs.

M/s.Gautam Textile Corporation & Ors. ...Defendants

Mr.Yogesh Gaikwad I/b. Bilawala & Co. for Plaintiff.

CORAM : S.C. GUPTE, J.

DATE : 18 APRIL 2018

P.C. :

The present notice of motion has been taken out by the original Plaintiff in this summary suit. Originally, when the Plaintiff took out a notice of motion for attachment before judgment under Order 38 Rule 5 of the CPC, Defendant No.2 offered to deposit in court a sum of Rs.60,000/- in proof of their *bonafides*. Defendant No.3 has since deposited this amount in court. A conditional leave to defend was thereafter granted against Defendant Nos.3 and 6. The suit was decreed as against Defendant Nos.1,2,4 and 5 on 2 July 2002. Even as far as Defendant Nos.3 and 6 are concerned, the suit has been decreed against them for non-compliance with the order of conditional leave. A decree has been passed accordingly against them on 4 December 2002. By the present notice of motion, the Plaintiff applies for leave to withdraw the amount of Rs.60,000/- deposited initially by Defendant No.3.

2 The decree is currently pending execution. Some of the

Defendants have been served, whilst others could not be served. A pasting order was obtained accordingly for effecting service on them. A notice of the present application is served by pasting at the last known address. Affidavits of service have been duly filed in this behalf by the Applicant / Plaintiff.

3 The notice of motion is accordingly made absolute in terms of prayer clause (a).

4 Office to act on the authenticated copy of this order.

(S.C. GUPTE, J.)