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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 557 OF 2010
IN
SUIT NO. 516 OF 2010
WITH
NOTICE OF MOTION NO. 605 OF 2013

Mumbai International Airport Pvt Ltd ...Plaintiff
Versus
Mukand Ltd & Ors ...Defendants

Mr Farid Karachiwala, *with Harsheen Madan, i/b J Sagar Associates, for the Plaintiff.*
Mrs Nilima Sanglikar, *for Defendant No. 1.*
Mrs Uma Palsule-Desai, *AGP for Defendant No. 3- State.*

CORAM: G.S. PATEL, J
DATED: 19th November 2018

PC:-

1. On 25th February 2010, the 1st Defendant's Advocates wrote to the Plaintiffs' attorneys saying that the 1st Defendant would not act in furtherance of the impugned advertisement dated 21st December 2009. It is true that this statement was limited in time until 5th March 2010. It seems, however, that on 18th March 2010 RY Ganoo J ordered that the statement made and recorded in the letter of 25th February 2010 "will continue till the disposal of the

Petition”. Evidently, the word ‘Petition’ is merely a typographical error. There is also no doubt that this position has continued for the last eight years.

2. Today Ms Sanglikar on behalf of the 1st Defendant urges that the Notice of Motion should now be decided on merits, and the 1st Defendant ought no longer to be held to the commitment it made eight years ago. She submits that at that time, in 2010, the 1st Defendant raised a preliminary issue of limitation, and this is the only reason for the 1st Defendant making that statement. The court did frame a preliminary issue. The Plaintiff led some evidence. Ms Sanglikar complains about the considerable delay on the Plaintiff’s part in doing so. All this is now water under the bridge, for, a few months ago, Section 9A of the Code of Civil Procedure 1908 stood repealed. I noted the consequences in my order dated 27th August 2018.

3. That issue of limitation will now be taken up in the Suit itself. The Suit is listed for directions and for framing issues on 26th November 2018.

4. Having regard to the fact that the 1st Defendant’s statement has continued since 2010, for the better part of eight years or more, I see no reason why that should not be confirmed as the final order on the Notice of Motion, especially since the Plaintiff today presses nothing further. The order of RY Ganoo J dated 8th March 2010, continuing the statement made earlier by the 1st Defendant will continue pending the Suit.

5. The Notice of Motion is disposed of in these terms. No costs.
6. All contentions are left open in the Suit.

(G. S. PATEL, J)