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

REVIEW PETITION LODGING NO. 9 OF 2018

IN

APPEAL (L) NO. 348 OF 2015

IN

COURT RECEIVER REPORT NO. 384 OF 2014

IN

SUIT NO. 4913 OF 2000

Afzal Satar Oomerbhoy & Ors.

.. Petitioners

Vs.

Nadeem Majid Ommerbhoy & Ors.

.. Respondents

Mr. Anand S. Jondhale a/w Mr. Babu Singh, Mr. K. K. Sonawane, Ms. Yashoda Jondhale I/by Mr. Rahul Singh for review petitioners.

Mr. Gaurav Joshi, Sr. Adv. A/w Ms. Neeta Jain, Mr. Piyush Raheja, Mr. Z. A. Jariwala, Mr. Ganesh Ambekar I/by M/s. Thakore Jariwala & Associates for respondent no.1.

Mr. Kalpesh Joshi a/w Ms. Nisha Shah for respondent no.2.

Ms. Kavita Deshpande, 1st Asstt. to Court Receiver present.

CORAM: NARESH H. PATIL &
NITIN W. SAMBRE, JJ.

JULY 05, 2018.

P.C.

1. The learned counsel appearing for the petitioners raises three issues for reviewing the order dated 12/2/2018 passed in Appeal (L) No. 348 of 2015. It is submitted that the impugned order is contrary to the consent order passed and incorporated by the learned Single Judge (Coram: D. K. Deshmukh, J.) on 30/7/2001 in Chamber Summons No. 555 of 2001, a trade mark cannot be transferred. In this view of the matter, the order needs to be reviewed. The respondent no.1 has no concern with the trade mark and, therefore, necessary intervention is required.

2. We heard the learned Senior Counsel Mr. Joshi for respondent no.1, who has referred to the order dated 9/3/2015 passed by the learned Single Judge (Coram: G. S. Patel,J.) in Court Receiver's Report No. 384 of 2014 in Suit No. 4913 of 2000, against which order an appeal was preferred to this court. By an order date 12/2/2018 the appeal came to be dismissed. The learned counsel submits that this is an obstructionist approach the review petitioners are adopting and since last more than 4-5 years there has been no progress in the matter due to the approach adopted by the review petitioners herein. There is absolutely no apparent error in

the order under review and, therefore, the review petition needs to be dismissed.

3. We have considered the submissions advanced, perused the order under review and the orders dated 9/3/2015 and 30/7/2001 passed by the learned Single Judge. After the order under review was passed, the learned counsel for the review petitioners/ Org. appellants had prayed for staying the operation of the said order which was taken note of in para 14, which reads as under :-

“14. At this stage, both the learned counsel for the appellants pray for stay of this order for a period of 8 weeks. The request is opposed by the learned Counsel for Respondents. As we are not inclined to interfere with the order passed by the learned Single Judge, request for ad-interim relief stands rejected.”

We also perused the relevant clauses of the terms recorded by the learned Single Judge in the order dated 30/7/2001.

5. We do not find any satisfactory and convincing grounds to entertain this review petition. The grounds raised in the review petition do

not commend to us. The review petition is devoid of merits and the same is dismissed.

6. At this stage, the learned counsel for the review petitioners prays for stay of this order. The learned Counsel for the respondents oppose the said prayer. The prayer is rejected.

(NITIN W. SAMBRE J.)

(NARESH H. PATIL,J.)