

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 4077 OF 1998
WITH
NOTICE OF MOTION NO. 723 OF 2014
AND
NOTICE OF MOTION NO. 357 OF 2016

Cauvery Software Engineering Systems Ltd ...Plaintiff
Versus
Wockhardt Ltd & Ors ...Defendants

SUIT NO. 5927 OF 1998

Scintilia Software Technology Ltd ...Plaintiff
Versus
Wockhardt Ltd & Ors ...Defendants

SUIT NO. 1439 OF 1999

European Software Alliances Ltd ...Plaintiff
Versus
Wockhardt Ltd & Ors ...Defendants

SUIT NO. 4186 OF 1999

Uniport Computers Ltd ...Plaintiff
Versus
Wockhardt Ltd & Ors ...Defendants

Mr Rahul Arote, for the Plaintiffs in all four Suits.
Mr Dhruv H Joshi, i/b Harish Joshi & Co., for Defendant No. 1 in all

the Suits.

Mr Murari Madekar, *with Sachin Kudalkar, i/b Madekar & Co., for Defendant No. 2 in all the Suits.*

Mr Tushad Cooper, *with Viloma Shah & Ameya Deosthale, i/b M/s. Hariani & Co., for Defendant No. 3 in all the Suits.*

CORAM: G.S. PATEL, J
DATED: 4th December 2018

PC:-

1. Since 27th October 2015, when SJ Kathawalla J framed issues and passed directions for filing Evidence Affidavits, Affidavit of Documents and Compilations of Documents, the Plaintiffs have done absolutely nothing. The matters were listed yesterday. The Plaintiffs did not appear nor did their Advocates. I listed the matters for dismissal today.

2. The Plaintiffs are represented today. I am told different things, in the following sequence. First, that the report of a Commissioner earlier appointed for local investigation was not traceable. Second, that the Commissioner himself was not traceable. It is not pointed out by the Plaintiffs — but only by Mr Cooper for Defendant No. 3 — that none of this is true for the simple reason that when SJ Kathawalla J framed issues and passed directions on 27th October 2015, a copy of the Commissioner's Report was given to all sides, and, therefore, no grievance can be made in 2018 of non-availability of that report before 2015.

3. I also find that no application of any kind has been made by the Plaintiffs since 27th October 2015. They never sought extension

of time. They never sought issuance of a summons or informed the Court of any efforts made to find the Commissioner. In fact, they did nothing at all, except to ignore SJ Kathawalla J's order.

4. The only lacunae, if I may be permitted to call it that, in SJ Kathawalla J's order is that it did not provide for a default, i.e., what was to happen if the Plaintiffs failed to comply with his directions. The Plaintiffs seem to believe that Court orders are recommendations or suggestions, and that the Plaintiffs have a choice in complying with our orders. The Plaintiffs are mistaken.

5. Let us hear no more from the corporate sector about the so-called 'ease of doing business', when elements of that sector itself seem to believe that expression means an entitlement to endless adjournments on the flimsiest grounds. The Plaintiffs will now face the consequences of their three-year failure to comply with SJ Kathawalla J's directions.

6. All four suits are dismissed with costs.

7. All interim applications are infructuous and are disposed of as such.

(G. S. PATEL, J)