

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 2868 OF 2016
IN
SUIT NO. 2812 OF 2001

Jayesh H Pandya ...Plaintiff
Versus
Sukanya Holdings Pvt Ltd & Ors ...Defendants

Ms Dipti Panda, *with Mr Ganesh Ambekar, i/b Thakore Jarimala, for the Applicant/Defendant No. 26.*

Mr JP Sen, Senior Advocate, *with Mr O Chandurkar, i/b Jacinta D'Silva, for the Plaintiff.*

CORAM: G.S. PATEL, J
DATED: 6th February 2018

PC:-

1. This is a Motion filed by Defendant No. 26, Hathway Cable Datacom Pvt Ltd (“**Hathway**”). It is ostensibly under Order VII Rule 11(a) of the Code of Civil Procedure 1908. The second prayer seeks that the entire Suit be stayed. The only reason for all this is that Defendant No. 26 took a Leave and License from some of the Defendants of premises in the building known as “Swati” that is under dispute. The case of the Plaintiff is, throughout, that some of the contesting Defendants fraudulently dealt with commercial apartments or units in the building by creating fake Agreements for Sale, then fake tenancies and finally allowing the creation of Leave

and License Agreement to various entities including Hathway. The Plaintiff does not make any adverse allegations against Hathway. He only says that it is or was a licensee from one or more of the Defendants.

2. Hathway was once a necessary party because amongst other the Plaintiff sought a Receiver of the premises including those occupied by Hathway. There might also have been a question of securing any deposit or monthly license fees taken or collected by one of the Defendants who transacted with Hathway. I do not believe this would have required a stay of further proceedings in the Suit or even a rejection of the plaint.

3. In any case, all this is academic since Hathway has admittedly surrendered possession and is no longer a licensee. I do not need to pass any orders on the prayers, but have only to direct the deletion of Defendant No. 26 as a party Defendant to the Suit. The Plaintiffs will carry out the necessary amendment, without need of reverification by Friday, 9th February 2018 in the cause title of the Suit.

4. There are very many interim applications pending. Defendant No. 26 will be deemed to have been deleted in all of them. We will strike them off as we go on, since all these are being heard.

5. The Notice of Motion is disposed of in these terms. There will be no order as to costs.

(G. S. PATEL, J)