

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 2295 OF 2018
IN
SUIT NO. 1583 OF 2006

Surinder Singh Pahwa & Anr ...Plaintiffs
Versus
Davinder Singh Pahwa & Ors ...Defendants

Mr Zal Andhyarujina, i/b SA Mangaldas, for the Plaintiffs.
Ms Alpna Ghone, with Tanmayee Salekar, i/b M/s. Shah &
Sanghavi, , for Defendants Nos. 1 and 4.
Mr Akshay Kolse-Patil, with Eram Quraishi, i/b M/s. Kartikeya &
Associates, for Defendant No. 2.

CORAM: G.S. PATEL, J
DATED: 13th December 2018

PC:-

1. Pursuant to my order dated 5th December 2018, Mr Andhyarujina has instructions to state that the Plaintiffs have received a written offer from the licensee of Nirmal Building office premises. The licensee is Sumangalam Exports Pvt Ltd. In its offer to the Plaintiffs, it has agreed to take an extension of the license at an enhanced licensee fee of 10% for a further period of 36 months and thereafter for a further period of 24 months on a second enhancement of 12.5%. Mr Andhyarujina submits that given the fact

that Sumangalam has been a licensee for last four years without any complaint, and, further, since all issues of GST etc are addressed with Sumangalam agreeing to bear these charges, there is no reason to upset or change this situation. He is emphatic that irrespective of the offer being made by the 2nd Defendant, the Plaintiff is not agreeable to the appointment of the 2nd Defendant as a licensee even if the order of 30th April 2012 (correcting a previous order) allowed latitude to the Plaintiff and Defendants Nos. 1 and 4 to appoint any other person including the 2nd Defendant as a licensee. I believe Mr Andhyarujina is correct because that order makes it clear that it was the option of the Plaintiff and Defendants Nos. 1 and 4 to give the premises to any other third party including Defendant No. 2. This does not mean that Defendant No. 2 can insist on being the licensee of the Plaintiff and Defendants Nos. 1 and 4.

2. The Notice of Motion is disposed of accordingly. There will be no order as to costs.

(G. S. PATEL, J)