

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

**COMMERCIAL NOTICE OF MOTION NO.26 OF 2014
IN
COMMERCIAL IP SUIT NO.106 OF 2013**

Manugraph India Limited

....Applicant/Plaintiff

Vs.

Sigmarq Technologies Pvt. Ltd. & Ors.

....Defendants

Mr. Rohan Kadam a/w. Mr. Himank Singh i/b. Desai and Diwanji for applicant/plaintiff.

Dr. Birendra Saraf a/w. Mr. Chandansingh Shekhwat i/b. Parinam Law Associates for defendant nos.1,3 and 4.

CORAM : K.R.SHRIRAM, J.

DATE : 04.06.2019

P.C.:

1 On 18th January 2013 the following order came to be passed :

1. The learned Advocate appearing for Defendant Nos.1, 3 and 4 states that his clients as of date have no pending orders to manufacture the impugned machine/s and in the event of any order henceforth being received by them, the same would take four to six months for execution. He submits that the Defendants have no confidential material belonging to the Plaintiffs and therefore, disclosure of the same to any third party does not arise. The statements are accepted.

2. The learned Advocate for Defendant No.8 on instructions, states that the services of Defendant No.8 from the Plaintiff's Company is terminated and that he is not in the manufacturing business any more and that he shall not disclose any confidential material of the Plaintiffs to any third party. The statements are accepted.

3 As regards Defendant Nos.2, 5 to 7, 9 and 10, who despite service have remained absent, there shall be an injunction against them in terms of prayer clauses a (i) and (ii) of the Notice of Motion.

4. The Juna Rajwada Police Station, Dist. Kolhapur, is directed to deposit the certified copies of all the drawings seized from the Defendants, with the Prothonotary and Senior Master of this Court on or before 22.01.2013. The Advocates for the Plaintiffs and the Defendants shall forthwith forward a copy of this order to the Inspector Incharge, Juna Rajwada Police Station,

Dist. Kolhapur, by hand delivery.

5. The Defendants to file their respective Affidavits in Reply on or before 04.02.2013. The Defendants shall incorporate the above statements in their Affidavits in Reply. Rejoinder, if any, to be filed on or before 11.02.2013. Place the Notice of Motion for hearing on 18.02.2013.

2 Affidavit in reply has been filed but Mr. Kadam states that the statement contained in paragraph 1 of the order dated 18th January 2013 has not been incorporated in the affidavit in reply. Dr. Saraf states that within two weeks from today, a fresh affidavit will be filed by the Managing Director of defendant no.1 incorporating the statement. In any event, Dr. Saraf, on instructions states that the situation as on date is the same as on 18th January 2013 and the statement as recorded in paragraph 1 of the order dated 18th January 2013 will continue until the hearing and final disposal of the suit. At the same time, Dr. Saraf states that if and when his clients receive any order to manufacture the impugned machine/s, they shall give minimum twelve weeks notice in writing to plaintiff before they even start manufacturing the machine/s.

3 The other defendants are absent. As regards defendant nos.2, 5 to 7 and 9 and 10, there shall be an injunction against them in terms of prayer clause – a (i) and a (ii) of the notice of motion.

4 This notice of motion accordingly stands disposed.

5 Dr. Saraf states that written statement of defendant nos.1, 3
and 4 is ready and will be declared and copy served upon plaintiff within
two weeks from today.

6 Mr. Kadam, on instructions states that defendant no.5 has since
expired and seeks leave to delete defendant no.5. Leave granted.
Amendment to be carried out within two weeks from today.

7 Mr. Kadam states that as regards the remaining defendants,
writ of summons has been served and undertakes to file affidavit of service
within two weeks from today.

8 Suit as against those defendants to proceed as undefended suit.
It is made clear that if the writ of summons has not been served effectively,
then the suit as against those defendants will stand dismissed without
further reference to this Court.

9 In view of the above order, notice of motion no.985 of 2019
also stands disposed.

(K.R. SHRIRAM, J.)