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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (L) NO. 2304 OF 2018
IN
SUIT NO. 461 OF 2010

Edit II Productions ...Plaintiff
Versus
Shoeb Mohammed Taj Mohammed Shaikh & Ors ...Defendants

NOTICE OF MOTION NO. 1244 OF 2016
IN
SUIT NO. 461 OF 2010
AND

NOTICE OF MOTION NO. 1574 OF 2016

Edit II Productions ...Plaintiff
Versus
Standard Chartered Bank & Ors ...Defendants

Ms Sapana Rachure, *for the Plaintiff & Applicant in NMSL/2304/2018.*

Ms Kranti SS Anand, *for Defendants Nos. 2, 3 & 4/Applicant in NMS/1244/2016.*

Mrs Neeta Karnik, *for Defendants Nos. 5, 6 and 7.*

Mr KI Khandelwal, *i/b Khandelwal Associates, for Defendant No. 8*

CORAM: G.S. PATEL, J
DATED: 13th March 2019

PC:-

NOTICE OF MOTION NO. 1244 OF 2016

1. The Notice of Motion is of 2016. It was not served on Ms Rachure who is on record for the Plaintiffs until a few minutes ago when a copy was given to Ms Rachure. There is absolutely no reason given for this except to say that Ms Rachure and her clients 'know everything' about the matter. That is not a ground. The Notice of Motion is liable to be dismissed on this ground alone.

2. Second, for reasons that are not entirely obvious the Notice of Motion continues to show the Standard Chartered Bank as Defendant No. 1. Ms Anand insists that the plaint has not been amended despite an order of SJ Kathawalla J allowing that deletion. She ought to have taken search and checked the original records. The amendment was carried out on 4th January 2017, over two years ago. She then says she was not served with an amended copy of the plaint. There is a difference between saying that the amendment has not been carried out and that a copy of the amended plaint was not served. Next, Ms Anand says that Court Receiver's Reports show the 1st Defendant. That is surely irrelevant. A mistake in the cause title of a Court Receiver's Report cannot alter an properly effected amendment on the parent court record.

3. Ms Anand next submits that the 1st Defendant cannot be deleted. That is not a question that I am not even empowered to examine. There is an order of the Court allowing that amendment.

If the original Defendants Nos. 2 to 4 are unhappy with that, their remedies lie elsewhere.

4. Even on merits there is no substance to this Notice of Motion. The Applicants/original Defendants Nos. 2 to 4 say the suit should be dismissed as barred by res judicata. That is impossible. The Plaintiff approached the National Consumer Redressal Commission in Consumer Case No. 168 of 2014 against the original 1st Defendant, Standard Chartered Bank. It did not succeed. The National Commission held the Plaintiff not to be a consumer. The Plaintiff went to the Supreme Court. On 7th September 2015, the Supreme Court dismissed the Civil Appeal. It noted the submission of counsel for the Plaintiff seeking liberty to apply to the National Commission after dropping the 'suit in question'. The Supreme Court granted that liberty and directed the National Commission to decide according to law. The Plaintiff went back to the National Commission, but got no relief. Ms Anand says that this suit does not, therefore, lie.

5. She is entirely in error. The dispute before the National Commission was only between the Plaintiff and original Defendant No.1, Standard Chartered Bank. The Plaintiff did delete Standard Chartered Bank as Defendant No.1. Thus, it did 'drop' its suit against Defendant No.1; and that is all it told the Supreme Court it would do. The dispute before the National Commission was never between the Plaintiff and Defendants Nos. 2, 3 and 4.

6. The Notice of Motion is without substance. It is dismissed. There will be no order as to costs.

NOTICES OF MOTION (L) NO. 2304 OF 2018 & 1574 OF 2016

7. The Respondent and Defendants Nos. 2, 3 and 4 will file and serve their respective Affidavits in Reply to the Notice of Motion (L) No. 2304 of 2018 on or before 26th March 2019. There will be a consolidated Affidavit in Rejoinder to be filed and served on or before 2nd April 2019.

8. List that Notice of Motion for hearing and final disposal on 10th April 2019 along with Notice of Motion No. 1574 of 2016.

(G. S. PATEL, J)