

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

**COMMERCIAL NOTICE OF MOTION NO.21 OF 2013
WITH
CONTEMPT PETITION NO.60 OF 2011
WITH
NOTICE OF MOTION NO.4169 OF 2008
WITH
COMMERCIAL NOTICE OF MOTION NO.310 OF 2017
IN
COMMERCIAL IP SUIT NO.22 OF 2008**

Sai Ram Infosys Network Pvt. Ltd. & Anr.Plaintiffs

Vs.

Maharashtra State Electricity Distribution Co. Ltd.Defendant

Mr. Vinod Bhagat a/w. Ms. Ruchi Agarwal and Ms. Parveen Anand i/b. G.S. Hegde and V.A. Bhagat for applicants/plaintiffs.

None for defendant.

CORAM : K.R.SHRIRAM, J.

DATE : 04.06.2019

P.C.:

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1 Prayer clauses – (a) and (b) of this notice of motion read as under :

(a) pending the hearing and final disposal of the present suit, the defendant through its directors and key managerial personnels (whose names are appended to the affidavit in support at Exhibit M) be arrested and detained in civil prison for a period of three months;

(b) pending the hearing and final disposal of the present suit, this Hon'ble Court be pleased to appoint Court Receiver High Court Bombay with all powers under Order 40 Rule 1, CPC 1908, to search, seize and to make an inventory of all infringing materials, copies of the said Computer Programme and all Computers and all Computers (including hard disks and

accessories) wherein the infringing software is stored by the defendant, their servants, agents, contractors, employees, or anyone claiming through/under or on behalf of the defendant with the power to take physical possession and custody thereof.

2 On 9th February 2009, the following order came to be passed :

1. The defendants' Advocate makes a statement that the plaintiffs' suit software is not being utilised by the defendants for reading and processing the bills after photographing the meters of the consumers. In view of this statement, there is no need to pass any ad-interim relief in favour of the plaintiffs.

2. The hearing of the motion is expedited. The parties shall complete the pleadings before 16-3-2009.

3. S.O. to 16-3-2009 (HOB).

3 On 8th August 2016 another order came to be passed in which paragraph 2 reads as under :

2. In my view, this Notice of Motion will probably require taking of evidence, especially expert testimony in regard to the software in question and in which the Plaintiffs claim copyright. There is no doubt that the Defendant do use software. It is, however, their case that they do not now and at no point have ever used any software of Plaintiffs. In fact, they deny ever having received any such software from the Plaintiffs.

4 The suit is at the stage of trial. Mr. Bhagat states that plaintiffs' evidence is concluded and defendant was directed to file its evidence within two weeks as per the order dated 5th June 2017. Mr. Bhagat states that no evidence affidavit has been filed by defendant, atleast a copy has not been served on him or plaintiffs.

5 Therefore, evidence of defendant is closed.

6 Suit be listed for final hearing on 5th July 2019.

7 Plaintiff to complete the formalities as per the office order.

8 Therefore, the relief as prayed for in this notice of motion cannot be granted until the trial is over. Notice of motion is dismissed with liberty to take out a similar application as and when advised.

9 The statement made by defendant as recorded in the order dated 9th February 2009 to continue until the hearing and final disposal of the suit.

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10 None for applicant.

11 Notice of motion dismissed.

(K.R. SHRIRAM, J.)