

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

**COMMERCIAL NOTICE OF MOTION NO.52 OF 2015
IN
COMMERCIAL IP SUIT NO.192 OF 2015**

Siddhi Vinayak Knots and Prints Pvt. Ltd. & Anr.Applicants/Plaintiffs

Vs.

Amazon India and Anr.

....Defendants

Mr. Dhiren L. Vairagade i/b. Mr. Bhushan V. Mahadik for applicants/
plaintiffs.

None for defendants.

CORAM : K.R.SHRIRAM, J.

DATE : 04.06.2019

P.C.:

1 The suit was lodged on 3rd October 2015. Notice of motion was lodged also on the same date. No ad-interim relief has been granted. It does not appear that an application for ad-interim was ever made. There is nothing on record to indicate as to why when an ad-interim relief was not required and the same situation continues, the notice of motion should be allowed. Moreover, there were only two defendants. Defendant no.1 has been deleted but in the prayer clause – (a) of the notice of motion it says "... by blocking the online location of the defendant nos.1 to 4 website/e-portal platform ". Similarly in paragraph 2 of the affidavit in support it is also stated "... by blocking the online location of the defendant nos.1 to 4 website/e-portal platform ". Therefore, it is quite clear that plaintiffs have not even applied their mind while lodging the notice of motion.

2 Prayer clauses – (b), (c) and (d) of the notice of motion are primarily against defendant no.1. Defendant no.1 having been deleted, these prayers also do not survive.

3 Notice of motion accordingly stands dismissed.

4 Mr. Vairagade, counsel for plaintiffs states that writ of summons has been served upon only surviving defendant but is unable to state as to whether they have filed written statement. In the records and proceedings I find written statement of only defendant no.1 who has since been dropped.

5 Within one week from today, plaintiffs shall file an affidavit of service proving service of the writ of summons upon surviving defendant.

6 Therefore, suit as against defendant no.2 be transferred to the list of undefended suits and to be placed before the appropriate Court. If writ of summons has not been served and the affidavit of service not filed as directed above within one week, the suit shall stand dismissed without further reference to this Court.

(K.R. SHRIRAM, J.)