

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO. 3 OF 2014
IN
COMMERCIAL SUIT NO. 13 OF 2013**

Adi Burjorji Godrej	...Applicant
In the matter between	
Harilal Jalan	...Plaintiff
Vs.	
Godrej Consumer Products Ltd. & Anr.	...Defendants

Ms. Shaheda Madraswala i/b Vashi & Vashi, Advocate for Applicant/Respondent.

Mr. Sagar Jadhav i/b Mr. Dhananjay Pathak, Advocate for plaintiff.

**CORAM : G.S. KULKARNI, J.
DATE : 29 JANUARY 2020**

P. C.

1. Heard learned counsel for the applicant.
2. By this notice of motion, the applicant has prayed for the following reliefs;

*“ a. That the Plaint be rejected against Defendant No.2;
b. In the alternative to prayer (a) above, Defendant No. 2 be struck off as a Defendant to the Suit and all proceedings and/or application therein;
c. That pending hearing and final disposal of the above Notice of Motion, the hearing of Suit be stayed sin a die;
d. Ad-interim reliefs in terms of prayer (c) above.
e. For costs of the present Notice of Motion; and
f. Such further and other reliefs as the nature and circumstances of the case may require.”*

3. On 19 October 2018, this court (Coram S. C. Gupte, J) had passed the following order:

“This notice of motion is for striking of the name of Defendant No.2 from the cause title of the suit. Learned Counsel for the Plaintiff submits that he would like to take instructions of his client on this application. Learned Counsel submits that the Plaintiff is also in the process of filing his own application for addition of certain parties. Learned Counsel, in the premises, seeks time. Stand over to 21 November 2018.”

4. Despite the above order, no reply has been filed. The consequence being that all averments as made in the affidavit filed in support of the notice of motion remain unconverted and would be required to be taken as admitted by the plaintiff. This apart, on a perusal of the averments as made in the plaint, it is also clear that the plaintiff do not have any cause of action against defendant No.2 and merely because of certain information came to the notice of the plaintiffs from the website of the defendant no.1 and from the database of the Registrar of companies, defendant no.2 is impleaded as a party to the present suit.

5. In view of the above discussion and as there is no opposition to this notice of motion, which is pending for more than six years despite of ample opportunities to the plaintiff to defend the same, the notice of motion is required to be allowed. It is accordingly allowed in terms of prayer clause (b).

7. Necessary amendment in the plaint be carried out within a period of two weeks from today.

8. Disposed of in the above terms.

[G.S. KULKARNI, J.]