

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

COMMERCIAL APPEAL NO.532 OF 2019
IN
NOTICE OF MOTION NO.622 OF 2019
IN
COMMERCIAL SUIT (IP) NO.298 OF 2019

Aegon Life Insurance Company Limited ..Appellant
Versus
Aviva Life Insurance Company India Ltd. ..Respondent

Ms. Pooja Kshirsagar a/w Ms. Kirti Balasubramaniam & Mr. Prabhav
Shroff i/by AZB & Partners, Advocates for the Appellant.
Ms. Preeti Shah, Advocate for the Respondent.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 17th FEBRUARY, 2020

P.C.

1] In an action for passing off concerning the use of the word
'iTerm', the Appellant who was the Plaintiff, failed to obtain an
interim injunction in its favour when, Notice of Motion No. 622 of
2019 filed in Commercial Suit (IP) No. 298 of 2019 was dismissed
vide impugned order dated 19th August 2019.

2] The Appeal lays challenge to the said order dated 19th
August 2019.

3] Parties have entered into a settlement recorded in the
consent terms between the Appellant and the Respondent filed in

Court today. The consent terms are taken on record and marked “X” for identification.

4] Consent terms have been signed by the Head Legal and Company Secretary of the Appellant and the Company Secretary and AVP-Legal on behalf of the Respondent. The same has been signed by the learned advocates of the parties. The Indenture is dated 13th February 2020. The consent terms require the Respondent to stop using the word ‘iTerm’ or ‘iTerm Smart’ or any mark deceptively similar to the said mark. In consideration whereof the Appellant has agreed to reimburse the Respondent a sum of ₹ 1 Crore plus applicable GST (reimbursement cost) in tranches on the dates as per the various Sub Paras of Para 5 of the consent terms. There are further terms between the parties contained in Paras 7 to 11.

5] The consent terms would warrant the suit to be decreed in terms thereof.

6] As regards the instant Appeal the same is liable to be disposed of setting aside the impugned order dated 19th August 2019 requiring it to be declared that the Respondent would be bound by the terms of the consent upon the Appellant complying with its obligations under the consent terms.

7] The suit is decreed in terms of the consent terms. Refund of Court fees as per Rules.

(1) -COMAP-532-19.doc.

8] Recording as above and declaring as above the Appeal is disposed of.

9] Undertakings as per Paras 5(g), 8, 10 and 14 are treated as to undertakings to the Court and are accepted by the Court, meaning thereby breach thereof would be under pains of contempt.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE

Balaji
G.
Panchal

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Balaji G.
Panchal
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