

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

**NOTICE OF MOTION No. 459 OF 2017
IN
COMMERCIAL IP. SUIT No. 142 OF 2014**

**WITH
NOTICE OF MOTION No. 27 OF 2014
IN
COMMERCIAL IP. SUIT No. 142 OF 2014**

Dongguan TR Bearing Co. Ltd. And Anr. ...Applicants
(Org. Plaintiffs)

In the matter between

Dongguan TR Bearing Co. Ltd. And Anr. ...Plaintiffs

Vs.

M/s. Harman Overseas & Others ...Defendants

Mr. Amit Jamsandekar a/w. Alka Parelkar i/b. V. A. Associates, for the
Plaintiffs.

Mr. H.W. Kane and Mr. Nikhil Sharma i/b. W.S. Kane & Co. for Defendants.

CORAM : S.C. GUPTE, J.

DATE : 21 JANUARY 2020

P.C. :

1. This notice of motion seeks leave to withdraw a statement made by the Plaintiffs' Counsel and recorded in order dated 9 December 2014. The subject statement expressed the Plaintiffs' proposal not to lead oral evidence in the notice of motion and instead to have the issue/s under Section 9A heard and disposed of on pleadings. At that stage, the Plaintiffs' leave petition under Clause XIV of Letters Patent was pending

before this Court. After leave was granted and the matter was carried by the Defendants in appeal, the Appeal Court, while disposing of that appeal, left every question, bearing on the jurisdiction of the court, to be open and to be agitated in due course. In the premises, the Plaintiffs seek to withdraw their original statement recorded on 9 December 2014, since they would now like to lead evidence on all concerned issues including the issue/s framed under Section 9A. Learned Counsel for the Defendants resists the Plaintiffs' application.

2. In the facts of the case, it would be in the interest of justice to allow the Plaintiffs to withdraw their statement originally made and allow the Plaintiffs to lead evidence. There is nothing to show that by reason of the Plaintiffs' original statement, the Defendants have altered their position to their detriment or are now likely to suffer any prejudice, if the Plaintiffs are permitted to withdraw their original statement. After all, they are perfectly free to produce their own material / evidence to counter the Plaintiffs' evidence.

3. Accordingly, notice of motion is allowed by making it absolute in terms of prayer clause (a).

(S.C. GUPTE, J.)