

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL NOTICE OF MOTION NO. 265 OF 2017
IN
COMMERCIAL IP SUIT NO. 395 OF 2017

Ashok M. Bhat

... Plaintiff

V/s.

Smile Corporation & Anr.

...Defendants

Mr. Vinod Bhagat i/b GS Bhagat and VA Bhagat for Plaintiff/Applicant.
Mr. Mahesh Mahadgut for Defendant.

CORAM : K.R.SHRIRAM, J.
DATED : 10th FEBRUARY, 2021.

P.C. :

1. At the outset Mr. Bhagat states that ad-interim in terms of prayer clause (a), (c) and (d) was granted ex-parte on 19th January, 2017 and later petitioner sought leave under Clause XIV of the Letters Patent which was also granted pursuant to order dated 25th April, 2017. Mr.Bhagat therefore prays that prayer clause (b) of the Notice of Motion be also granted.

2. Mr. Mahadgut states that defendant has not been using infringing trade mark and therefore court may grant prayer clause (b) as well and confirm the order dated 19th January, 2017. Accordingly, prayer clause (b) of the Notice of Motion is also granted.

3. Notice of Motion No. 265 of 2017 therefore is disposed in terms of prayer clause (a) to (d).

4. Mr. Mahadgut also makes a statement without prejudice to defendant's rights and contentions in view of the statement made by him on behalf of defendant that defendant shall not use infringing mark and art work, defendant is ready to enter into consent terms for decreeing the suit provided plaintiff does not press for any damages.

5. Mr. Bhagat requested the matter be stood over to 24th February, 2021 so that he can take instructions and if plaintiff is agreeable without prejudice as suggested by Mr. Mahadgut, parties will come with consent terms on 24th February, 2021.

6. Stand over to 24th February, 2021 for filing consent terms.

(K.R. SHRIRAM, J.)