

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL NOTICE OF MOTION NO. 292 OF 2016
IN
COMMERCIAL IP SUIT NO. 534 OF 2016

Hamilton Housewares Pvt. Ltd.& Ors.Applicant

In The Matter Between

Hamilton Housewares Pvt. Ltd.& Ors.Plaintiff

V/s

Yogi ProductsDefendants

Ms. Suvarna Joshi for Plaintiff.

Ms. Srishti Shetty i/b Mohammed Zain Khan for Defendant.

CORAM : K.R.SHRIRAM, J.
DATED : 20th JANUARY 2021.

P.C. :

1. Learned counsel for defendant on 13th January, 2021 stated, though not recorded, that he has not been receiving instructions from defendant and requested the matter be stood over by one week. The matter therefore was stood over today.

2. Ms. Shetty i/b Mr. Khan states that they have tried to contact defendant and has also sent communication to defendant but there has been no response.

3. An ad-interim order came to be passed on 18th March, 2016 which is still in force. Therefore, the order dated 18th March, 2016 in the Notice of Motion is confirmed as order in the Notice of Motion and Notice of Motion is accordingly disposed.

4. There is written statement of defendant in the record and proceedings affirmed on 14th July, 2016. Ms. Shetty states that written statement can be accepted and suit may proceed for trial. Written statement accordingly taken on record.

5. I have to note that in the reply to the Notice of Motion defendant had raised an issue of jurisdiction under Section 9(A) of the Code of Civil Procedure, 1908 and issue under Section 9(A) of the Code of Civil Procedure, 1908 came to be framed on 17th January, 2017. To prove the issue evidence had to be led. In view of the judgment of the Apex Court in **Nusli Neville Wadia Vs. Ivory Properties & Ors.**¹, the issue of jurisdiction will have to be considered alongwith other issues under Order XIV of the Civil Procedure Code 1908 that would arise for adjudication in the suit.

6. On or before 3rd February, 2021 parties shall file their respective affidavit of documents and serve a copy thereof upon the other side, failing which parties will not be permitted to rely on any document, copy whereof

¹ 2020 (6) SC 557

is not annexed to the plaint and/or written statement and mentioned in the list of documents annexed to the plaint and/or written statement. This will not, however, prevent a party from confronting a witness of another party with any document.

7. On or before 10th February, 2021 inspection to be completed. If inspection is not given, such party will not be permitted to rely on such document.

8. On or before 17th February, 2021 statement of admission and denial with reasons for denial to be exchanged. If the statement of admission and denial is not given, parties shall be deemed to have admitted the existence of all the documents of the other side.

9. Suit be listed for issues on 24th February, 2021 on which date parties shall come with agreed draft issues and a separate list of issues on which they are unable to agree. On the next date, if parties do not come with draft issues, they are put to notice that they will be put to terms.

(K.R. SHRIRAM, J.)