

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL NOTICE OF MOTION NO. 1446 OF 2018
IN
COMMERCIAL IP SUIT NO. 786 OF 2018

Unilever PLC and Anr.Applicant

In The Matter Between

Unilever PLC and Anr.Plaintiff

V/s

Wahab and Ors.Defendants

Mr. Ashutosh Kane a/w Mr. Nikhil Sharma and Mr. Tanveer Malhotra
i/b W. S. Kane and Co. for Applicant/Plaintiff.

Ms. Nidhi Chheda a/w Ms. Sheetal Gupta i/b Thodur Law Associates for
Defendant No. 4.

CORAM : K.R.SHRIRAM, J.
DATED : 17th MARCH 2021.

P.C. :

1. Mr. Kane states that ad-interim order dated 05/03/2018 was served on all defendants despite which no reply has even been filed to the Notice of Motion. Mr. Kane states that defendants have not even applied for recalling the order dated 05/03/2018. In the circumstances, order dated 05/03/2018 is confirmed as order in the Notice of Motion and Notice of Motion No.1446 of 2018 is accordingly disposed.

2. Mr. Kane relies on affidavit of one Pravin Kajrekar affirmed on 26/10/2018 to submit that writ of summons has been served on Defendant Nos. 2, 3, 4, 5, 8 and 9. As regards defendant no.1, Mr. Kane relies on affidavit of one Nilesh Sonawane affirmed on 14/08/2018 to confirm service of writ of summons. As regards Defendant Nos.6 and 7 Mr. Kane relies on order dated 30/10/2018 in which it is recorded that Defendant Nos.6 and 7 have informed the court that they have received writ of summons.

3. No written statement has been filed and the time prescribed under Order VIII Rule 1 of the Code of Civil Procedure, 1908 as applicable to commercial disputes for filing written statement has expired long back. Therefore, defendants have forfeited their rights to file written statement.

4. Order VIII Rule 10 of the Code of Civil Procedure, 1908 provides that where any party from whom a written statement is required under Rule 1 or Rule 9 fails to present within the time permitted the Court shall pronounce judgment against him and on the pronouncement of such judgment a decree shall be drawn up.

5. Since no written statement as required under Order VIII Rule 1 has been filed by defendants, suit be placed for pronouncement of Ex-parte judgment against defendants before the appropriate court.

(K.R. SHRIRAM, J.)