

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL NOTICE OF MOTION NO. 1312 OF 2018
IN
COMMERCIAL IP SUIT NO. 649 OF 2018

Brihan Karan Sugar Syndicate
Pvt. Ltd.

....Applicant

In The Matter Between

Brihan Karan Sugar Syndicate
Pvt. Ltd.

....Plaintiff

V/s

Yashwantrao Mohite Krushna
Sahakar Sakhar Karkhana and Ors.

....Defendant

Mr. H. W. Kane a/w Mr. Nikhil Sharma and i/b W. S. Kane and Co. for
Applicant/Plaintiff.
None for Defendant.

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

P.C. :

1. Mr. Kane states that on 04/05/2018 an undertaking and statement on behalf of Defendant Nos.1 to 3 was made as recorded in the said order that they shall not use logo mentioned in Exhibit G-1 to G-3 annexed to the plaint. Mr. Kane further states that in fact this statement was made notwithstanding an affidavit dated 26/04/2018 opposing Notice of Motion was filed. By an order dated 18/07/2018 read with order dated 24/07/2018 ad-interim relief in terms of prayer clause (a)

and (b) was granted and that order has been in force till date.

2. Mr. Kane states that the order dated 18/07/2018 read with order dated 24/07/2018 be confirmed as an order in the Notice of Motion and Notice of Motion be disposed.

3. Since the order dated 18/07/2018 read with order dated 24/07/2018 was passed after filing affidavit in reply, I see no harm in confirming the said order as order in the Notice of Motion and disposing the Notice of Motion. Accordingly, order dated 18/07/2018 read with order dated 24/07/2018 is confirmed as order in the Notice of Motion and Notice of Motion No. 1312 of 2018 is accordingly disposed.

4. There is an affidavit of one Nilesh Sonawane affirmed on 25/07/2018 confirming service of writ of summons of defendant's advocate on 23/07/2018. No written statement has been filed. As per proviso of amended Code of Civil Procedure, 1908, Order VIII Rule 1 as applicable to Commercial Courts, defendants have forfeited their rights to file their written statement.

5. 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 in relation to the suit and on the pronouncement of such judgment a decree shall be drawn up.

6. 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.)