

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL IP SUIT NO. 17 OF 2008

Crompton Greaves Consumer Electricals Ltd.Plaintiff

V/s

Usha International Ltd. & Anr.Defendants

**ALONGWITH
COMMERCIAL NOTICE OF MOTION NO. 2224 OF 2019
IN
COMMERCIAL IP SUIT NO. 17 OF 2008**

Usha International Ltd. & Anr.Applicant

In The Matter of :

Crompton Greaves Consumer Electricals Ltd.Plaintiff

V/s

Usha International Ltd. & Anr.Defendants

Mr. Hemant Daswani i/b Dushyant Krishnan for Plaintiff.

Mr. Abhishek Tilak i/b DMD Advocates for Defendant.

CORAM : K.R.SHRIRAM, J.

DATED : 10th FEBRUARY 2021.

PC. :

1. Mr. Tilak states that there is a pending Notice of Motion taken out by defendants to recall the order dated 7th August, 2019 by which the evidence of defendants was closed. It has been recorded in the order dated 7th August, 2019 that defendants' witness was not present because plaintiff did not give admission and denial of documents. Strangely, in the affidavit in support of this Notice of Motion, defendant states that the witness could

not come due to professional commitments. That itself shows that defendants in the affidavit in support of Notice of Motion, have been economical with truth. Mr. Tilak also is not able to explain whether this Notice of Motion has been served on plaintiff. At the same time, Mr.Daswani states that if the court is to grant an opportunity to defendants to lead evidence then defendants should be put to terms. I agree with Mr.Daswani because this suit has been pending since year 2008. On 19th June, 2019 also defendants' witness did not remain present. So also on 24th July, 2019 though Mr. Tilak states that witness was present in court and relies on paragraph no.8 of affidavit in support of Notice of Motion. The presence of defendant is not recorded in the order dated 24th July, 2019. If he was present the advocate should have given his appearance. In any event I cannot accept this statement in affidavit in support because of the contradictions, which I have noted earlier.

2. Be that as it may, purely by way of indulgence, I am giving an opportunity to defendants to lead evidence in the matter. Certainly, defendants will have to be put to terms. Defendants to pay a sum of Rs.1,00,000/- (Rupees One Lakhs Only) as costs, Rs.50,000/- in favour of advocate for plaintiff and Rs.50,000/- to High Court Legal Aid Fund, Account No.60045304283, IFSC-MAHB0000002, Bank OF Maharashtra, Branch – Fort, Mumbai – 400 032, maintained by the High Court Legal Services Committee, Mumbai. These amounts shall be paid within one

week from today. Subject to complying with this, the order closing defendants' evidence dated 7th August, 2019 is recalled. If the amounts are paid and affidavit confirming the same with proof of payment annexed thereto is filed on or before 20th February, 2021 by defendants with copy to plaintiff confirming that this amount has been paid, suit be listed for recording evidence and marking of documents on 24th February, 2021 at 2.30 p.m.

3. If said affidavit is not filed after making payment, the suit be listed for final hearing on 25th February, 2021.

4. Notice of Motion No. 2224 of 2019 stands disposed.

(K.R. SHRIRAM, J.)