

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION NO.2314 OF 2022
WITH
LEAVE PETITION (LPETN) NO.13 OF 2022
IN
COMMERCIAL IP SUIT NO.102 OF 2022**

Asian Paints Ltd. ...Applicant/Plaintiff
V/S
Akash Traders ...Defendant

Mr. Vinod Bhagat a/w Ms. Prachi Shah and Mr. Atif Sayyed i/by Mr.
G. S. Hegde and V. A. Bhagat for Plaintiffs.
Ms. R. V. Rane, 2nd Assistant to the Court Receiver present.

CORAM : R. I. CHAGLA, J.
DATED : 21st JUNE, 2022.

P.C.

1. Heard learned counsel for the Applicant/ Plaintiff.
2. By the ex-parte ad-interim order dated 26th February 2022, this Court had granted ad-interim relief in terms of prayer clauses (a) and (c) of the Interim Application. The ex-parte ad-interim order has been continued from time to time and is in operation till 20th June 2022, vide order dated 5th May 2022.
3. The matter has been placed today as the Interim Application had not been listed yesterday i.e. on 20th June, 2022.

4. Mr. Bhagat has tendered of Schedule of Draft Amendments, which is taken on record and marked 'X' for identification. He has submitted that the commission has been executed by the Additional Special Receiver and the Court Receiver has filed the Court Receiver's Report No.81 of 2022 dated 22nd March 2022. Upon the filing of the Report, it came to the knowledge of the Applicant/Plaintiff that the Defendant was a sole proprietary concern of Mr. Akash Awasthi. Accordingly, the amendment is sought to be carried out in terms of the Schedule of Draft Amendments in the suit plaint as well as the Interim Application as well as consequential amendment thereof referring to the Court Receiver's Report as well as the ex-parte ad-interim order pursuant to which the execution of the commission was carried out.

5. The Schedule of Draft Amendment is taken on record and marked 'X' for identification.

6. The Applicant/Plaintiff is granted permission to carry out the amendment of the suit plaint and the Interim Application in terms of the Schedule of Draft Amendments marked 'X' within a period of two weeks from today i.e. on or before 5th July 2022. Re-verification is dispensed with.

7. Mr. Bhagat has tendered a copy of WhatsApp message which has been sent on 20th June 2022 to the Defendant informing him of today's date of circulation of the matter as well as attaching copy of the last order dated 5th May 2022. The copy of WhatsApp message is taken on record and marked 'X-1' for identification. It appears from the WhatsApp message which has two ticks denoting that has been received and read that the Defendant has been served with today's date and the last order and despite service has not appeared. Accordingly, Leave Petition under clause XIV shall be considered on the next date in view of the amendment being carried out to the suit plaint and the Interim Application.

8. In the event that the Defendant does not appear on the next date, the Leave Petition as well as the prayer for passing of in the Interim Application will be considered to be granted in absnece of the Defendant. The Advocates for the Applicant/Plaintiff shall serve the amended Interim Application and the amended suit plaint on the Defendant simultaneously upon carrying out of the amendment and file Affidavit of service on or before the next date.

9. The ex-parte ad-interim order 26th February 2022, shall continue to operate till 13th July 2022.

10. Place the Interim Application No.2314 of 2022 on 11th July 2022, for further ad-interim relief.

(R. I. CHAGLA, J.)