

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
INTERIM APPLICATION (L) NO. 6704 OF 2025
IN
COMMERCIAL MISCELLANEOUS PETITION NO. 53 OF 2024**

Rajesh Kumar Banka

...Applicant

Versus

Atlas Plastic & Ors.

...Respondents

WITH

INTERIM APPLICATION (L) NO.41029 OF 2022

Mr. Alankar Kirpekar, Mr. Ayush Tiwar i/b Shekhar Bhagat and Neelaja Kirpekar for Petitioner.

Mr. D. P. Singh a/w Mr. Amogh Singh for Respondent No.1.

Mr. Meghdut Bhattacharya a/w Ms Dishita Shah and Priyanka Prabhakar i/b ANM Global INC for Respondent No.2.

CORAM : ARIF S. DOCTOR, J.

DATE : 20th NOVEMBER, 2025.

P.C.

1 Mr. Kirpekar has invited my attention to the order dated 21st October 2024, by which this Court after noting the rival contentions of the parties passed the following order:

"5. Hence, the following Order is passed:-

(1) The Mechanical Department of Indian Institute of Technology, Mumbai, ("IIT") is appointed as Scientific Advisor with the objective of advising on whether the stopper function disclosed in Petitioner's claim which had initially been granted patent: 298116 has been disclosed in the documents D1 to D4. This is in order to determine structural and functional similarity. The parties in these proceedings shall provide the products relating to the document initially granted

patent 298116 as well as products relating to the documents D1 to D4. In addition the pleadings, documents and impugned Order dated 29th September, 2022 shall also be made available by the parties to the Scientific Advisor.

(ii) The Scientific Advisor shall assist the Court by rendering opinion on the aforementioned issue and file report within a period of four weeks from being notified of this Order by the Advocates for the parties."

2 Mr. Kirpekar submits that the IIT has since submitted a report dated 2nd April 2025, which according to him supports the Petitioner's case. Learned Counsel for the Respondent No.2, however, disputes this contention.

3 However, given that the issue involved is now technical and the parties have the benefit of a report of Scientific Advisor of IIT, learned counsel are agreeable that the matter can be remanded back to the controller of the patent for adjudication afresh and given the technical issue that arise, the impugned order is set aside and the matter is remanded back for consideration afresh. Parties are at liberty to place reliance upon the report of IIT before the controller. Given that considerable time has elapsed, the controller shall endeavor to dispose of the matter within a period of four months, subject to all other exigencies and the commitments that the controller may have.

4 Petition is accordingly disposed of.

5 In view of the disposal of the petition, interim applications do not survive and accordingly stands disposed of.

[ARIF S. DOCTOR, J.]