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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 621 OF 2026**

IN

COMMERCIAL SUIT NO. 69 OF 2024

Rajendra S. Daga ... Applicant

In the matter between

National Stock Exchange of ... Plaintiff
India Ltd.

Vs.

Kaynet Finance Limited ... Defendant

Mr. Dushyant Krishnan for Defendant No. 3 and Applicant in
IA/621/2026.

Mr. Rishabh Murali a/w. Mr. Sachin Chandarana, Mr. Amol
Rasal i/b. Manilal Kher Ambalal & Co. for the Original
Plaintiff.

Ms. Prachi Kolambekar a/w. Mr. Kajal Naidu i/b. Thodur Law
Associates for Defendant Nos. 1,2 and 4.

CORAM : GAURI GODSE, J.

DATE : 9th MARCH 2026

ORDER :

1. This application is filed by defendant no. 3 under Order
XIII-A of the Code of Civil Procedure, 1908 for passing
summary judgment dismissing the suit against defendant
no.3. The applicant also prays for directing the plaintiff to
delete the name of defendant no.3.

2. Learned counsel for defendant no. 3 submits that in view of the amicable settlement between defendant no. 1 - company and the other directors a Memorandum of Understanding ("MOU") dated 10th April 2010 was entered into. Pursuant to the MOU, defendant no. 3 and his family had agreed to sell their share holding and resign from their position as directors of defendant no.1. He submits that accordingly defendant no. 3 had resigned from his position as director on 12th May 2018. Accordingly, the resignation was also filed with the records of the Ministry of Corporate Affairs ("MCA"). An extract of the MCA record annexing defendant no.3's resignation as director is annexed to the application.

3. Learned counsel for defendant no. 3 therefore submits that defendant no. 3 would not be liable for any of the prayers in the suit as he has resigned as director nearly 10 years before filing of the suit.

4. Learned counsel for the plaintiff submits that the annual returns filed on behalf of defendant no. 1 with the plaintiff did not reflect the resignation of defendant no. 3. Hence, defendant no. 3 who was shown as director in the annual

returns was also arraigned as defendant in the suit on the ground that he is director of defendant no. 1 -company. He submits that the grounds raised in the application would not be sufficient to pass a summary judgment dismissing the suit against defendant no. 3. He submits that only because defendant no. 3 was continued to be shown as director in the annual returns filed with the plaintiff, he has been added as party defendant in the suit.

5. I have perused the application and the plaint. There is no dispute on the MOU between the directors and defendant no. 1 – company. The resignation of defendant no. 3 and the updated records of the MCA is also not disputed which records resignation of defendant no. 3 as director of defendant no. 1 -company. The suit is filed for recovery of money against defendant no. 3 and its directors. However, since defendant no. 3 had resigned in 2010 and resignation is also recorded in the MCA record, defendant no. 3 would not be a necessary party to the suit.

6. On the ground of defendant no. 3 not being a necessary party, a summary judgment as prayed is not warranted. Considering the grievance made on behalf of

defendant no. 3 and the aforesaid facts of the case, prayer clause (B) for deletion of defendant no. 3 would be sufficient to resolve the grievance of defendant no. 3.

7. In view of the aforesaid facts as evidenced from the averment in the application and the supporting documents, defendant no.3 would not be necessary party in the suit. Hence, the application is allowed in terms of prayer clause (B). The plaintiff shall delete the name of defendant no. 3. Amendment to be carried out within four weeks.

8. The plaintiff shall file amended plaint duly reverified and endorsed as per the rules.

[GAURI GODSE, J.]