

Laxmi

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

SUIT NO. 3102 OF 1986
WITH
SUIT NO. 2807 OF 1990

Kabir Real Estate Pvt. Ltd. ..Plaintiff
Vs.
Kabir Woollen Mills & Ors. ..Defendants

Mr. Hemant Mehta i/b. Mehta & Co. for the Plaintiff in S/3102/1986
and for Defendant No.7 in S/2807/1990.

Ms. Sonali Aggarwal i/b. Dhruve Liladhar & Co. for Defendant No.6A
and for the Plaintiff in S/2807/1990.

Mr. Vishal Mehta i/b. M. V. Law Partners for Defendant Nos. 6B in
S/3102/1986 and for Defendant No.8 in S/2807/1990.

Mr. Ish Gandhi i/b. Thakare Jariwala for Defendant No.7 in
S/3102/1986.

CORAM: B. P. COLABAWALLA, J
DATED: 10 MARCH 2023

P.C.

1. On 9th January, 2023, the following order was passed in Suit
No. 3102 of 1986

*"1. Heard the learned Counsel for the plaintiff and the
learned Counsel for defendant nos.6A and 6B.*

*2. The learned Counsel for the plaintiff submits that despite
order dated 11th March, 2021 directing the defendants to*

cross- examine the plaintiff's witness, the defendants have not come forward to cross-examine the plaintiff's witness.

3. In terms of the said order, the plaintiff gave notice to the defendants alongwith a copy of the said order.

4. An affidavit of service dated 7th April, 2021 is filed.

5. In the said order, the Court had recorded that if the defendants do not come forward for the cross-examination, the evidence of the plaintiff's witness is liable to be closed. In the circumstances, the right of the defendants to cross-examine PW-1 stands foreclosed.

6. The learned Counsel for the plaintiff submits that the plaintiff does not wish to examine any other witness or lead further evidence.

7. The evidence of the plaintiff stands closed.

8. Post the suit for leading evidence on behalf of the defendants alongwith Suit No.2807 of 1990 on 13th February, 2023.

9. The learned Counsel for defendant no.6B submits that defendant no.6B does not wish to lead evidence.

2. From this order it is clear that the right of the Defendants to cross-examine the Plaintiff's witness is now foreclosed. The Plaintiff also has closed his evidence as he does not wish to lead any further evidence of any other witness. The matter was placed on board on 13th February, 2023 in order to enable the Defendants to lead their evidence. The said order also recorded that Defendant No.6B does not wish to lead any other evidence.

3. Today when the above matters are called out, the learned Advocate appearing on behalf of Defendant No.6A has stated that the said Defendant also does not wish to lead any evidence.
4. As far as the other Defendants are concerned, none have appeared on their behalf either on the last occasion or even today. In these circumstances, the right of all the Defendants to lead any evidence in Suit No. 3102 of 1986 is now foreclosed.
5. Place Suit No. 2807 of 1990 on board for marking of documents on 13th April, 2023.
6. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

B. P. COLABAWALLA, J