



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

SUIT NO. 2256 OF 1998

Harinarayan G. Bajaj and Anr. .. Plaintiffs
Versus
Vijay Agarwal and Ors. .. Defendants

WITH
INTERIM APPLICATION (L) NO. 21702 OF 2023
IN
SUIT NO. 2256 OF 1998

Creative Garments Pvt. Ltd. .. Applicant
Versus
Harinarayan G. Bajaj .. Defendant

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- Ms. Sonal and Vivek M. Sharma i/by Vivek M. Sharma, Advocate for Plaintiffs.
 - Mr. Girish Kedia a/w. Ms. Shivangi Kedia Ruia and Mr. Krushang Kedia, Advocates for Defendant Nos.1, 2, 4 and 5.
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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 17, 2023.

P.C.:

1. Heard Ms. Sonal, learned Advocate for the Plaintiffs and Mr. Kedia, learned Advocate for Defendant Nos.1, 2, 4 and 5.

2. In this case, the issue before me is in respect of marking of four specific documents namely “X-12” to “X-15” which were marked by the Commissioner as Articles. All four documents are placed before me by Ms. Sonal, learned Advocate for the Plaintiff. They are originals. She would submit that objections raised by Defendants is

that all four documents namely “X-12” to “X-15” are not signed by the person who has issued these documents.

3. *Prima facie* perusal of the said documents reveal that these documents are issued by one Mr. Kirti J. Shah on his letterhead as well as his address appears therein and they are original documents to naked eye, save and except that yes they do not bear the signature of Kirti J. Shah.

4. Be that as it may, she would submit that there is adequate reference to these very four documents bearing the clearance numbers and bill numbers alongwith the date noted therein in the pleadings. She would submit that Mr. Kirti J. Shah is Defendant No.9 in the present proceeding and Plaintiffs’ desire to lead his evidence in support of the Plaintiff’s case.

5. Mr. Kedia fairly points out that Defendant No.9 has not filed his written statement and he is merely a proforma Defendant. He would submit that and in that view of the matter, he would be not entitled to lead his evidence in support of the Plaintiff’s case without any pleading to that effect.

6. Be that as it may, nothing can preclude the Plaintiffs from leading evidence of the Defendant in their support. Leave of the Court needs to be sought and while seeking such leave of the Court reference to the four documents and the nature and status of the said documents

shall be examined from the pleadings. The said documents though have not been signed by the said Defendants, they shall be considered for marking if adequate evidence / pleadings are established by the Plaintiffs with respect to the said documents for marking them as Exhibits.

7. Plaintiffs are directed to take steps for seeking leave of the Court, subject to any objections, if any, which shall be considered by the Court.

8. Stand over to **24th August, 2023.**

[MILIND N. JADHAV, J.]

Ajay