

**PGK**

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

Suit No.224 of 2008

Ashok Bhat & anr.	..	..	Plaintiffs
v/s.			
Harichand Nagpal & anr.	..	..	Defendants

Mr.D.D. Madon, Sr.Advocate with Mr.V.A. Bhagat for Plffs.  
Mr.R.V. Bhasin with Ms.Jaya Meghani i/by Mirchandani & Co.  
for Defts.

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**CORAM : SMT.ROSHAN DALVI, J.**

**DATED : 13<sup>th</sup> April, 2010**

**P.C. :**

- 1.The Affidavit of examination-in-chief of the Plaintiffs dated 25.1.2010 has been filed. It is taken on record. The Plaintiffs have relied upon various documents. The admissibility of the documents is required to be considered and is considered as follows:-
2. Carbon copy of the invoice dated 21.1.1989 addressed to Saikrupa Agencies by the Plaintiffs predecessor-in-title produced by the Plaintiffs from proper custody showing the business carried on by the predecessor-in-title of the Plaintiffs, marked Exhibit-A.
- 3.The original rent receipt issued by Rizvi Agent and

Hotels Pvt. Ltd. is marked X for identification. The telephone bill of Reliance dated 5.10.2006 is, by consent, marked Exhibit-B.

4. Carbon copy of the Plaintiff s invoice dated 3.1.2007, the carbon copy of the transport receipt dated 3.1.2007 and the original purchase order dated 28.12.2006 in respect of one transaction of the Plaintiffs are together taken on record and marked Exhibit-C (collectively).
5. Carbon copy of the bill dated 16.10.2007 and the transport receipt dated 16.10.2007 in respect of another contract of the Plaintiff are marked Exhibit-D (collectively).
6. Carbon copy of the bill dated 29.11.2007, the transport receipt dated 29.11.2007 and the purchase order dated 13.10.2007 are marked Exhibit-E (collectively).
7. Eight certificates issued by the Government of India, Trade Mark Registry on 15.2.2010, 12.2.2010 and 16.2.2010 are marked Exhibit-F (collectively).
8. The Defendants carton for the Defendants product for which oral evidence is led in paragraph 5 of the Affidavit of examination-in-chief is marked Exhibit-G.

9. Copy letter dated 20.1.2008 of the Advocate of the Plaintiffs received and acknowledged on behalf of Defendant No.2 is marked Exhibit-H.
10. The website prints out of 17.2.2010 Just Dial Telephone Directory Services, Mumbai taken out by the Plaintiffs are marked as Exhibit-I (collectively).
11. Two cartons of the Defendants products for which evidence is led in paragraph 6 of the Affidavit of examination-in-chief are marked Exhibit-J (collectively).
- 12.** Parties have agreed to conduct the cross-examination before the Commissioner. The Commissioner has been appointed. The parties shall appear before the Commissioner, initially on 7<sup>th</sup> June 2010 at 5 p.m. The Commissioner shall record the cross-examination, preferably day to day.
13. By consent, the evidence of the landlord, if any, shall be recorded for proving the documents marked X for identification and for further cross-examination thereon before the Commissioner directly.
- 14.** So soon as the Plaintiffs evidence is complete, the

Defendants cross-examination shall begin before the Commissioner upon the Affidavit of examination-in-chief already filed by the Defendants.

15.Mr.Bhasin on behalf of the Defendants states that the Defendants shall examine 2 witnesses, whose Affidavits have already been filed.

16.Parties shall have the Suit placed on board for arguments after the entire evidence is complete.

**(SMT.ROSHAN DALVI, J.)**