

Before : Shri D.V. Sawant  
Prothonotary & Senior Master  
Date : 3<sup>rd</sup> May, 2017

**FOR DIRECTION :**

|    |                |   |                                            |
|----|----------------|---|--------------------------------------------|
| 31 | COMS/38/2014   | ) | M/s. Khaitan and Co, Advocate for          |
|    | with           | ) | Plaintiffs.                                |
|    | NMCD/13/2014   | ) |                                            |
|    | COMS/38/2014   | ) | Mr. P Pathak and Hitesh Thorat,            |
|    | with           | ) | Advocate for Defendant Nos. 1 and 3.       |
|    | NMCD/42/2015   | ) |                                            |
|    | COMS/38/2014   | ) | Ms. Alvia Crasta and Arnab Ghosh i/b.      |
|    | with           | ) | Callidus Legal, Advocate for Defendant     |
|    | NMSL/1000/2014 | ) | No. 5.                                     |
|    | S/354/2014     | ) |                                            |
|    |                | ) | P.C. : Advocate for Defendant Nos. 1 and 3 |
|    |                | ) | submits that Notices of Motion taken       |
|    |                | ) | out by Defendant No. 1 under the           |
|    |                | ) | provision of Section 9A of C.P.C., 1908    |
|    |                | ) | and Section 8 of Arbitration and           |
|    |                | ) | Conciliation Act, 1996 for referring       |
|    |                | ) | matter to the arbitration, are pending.    |
|    |                | ) |                                            |
|    |                | ) | In view thereof, Defendant No. 1 to file   |
|    |                | ) | written statement within four weeks        |
|    |                | ) | after dismissal of aforesaid Notices of    |
|    |                | ) | Motion, failing Suit against Defendant     |
|    |                | ) | No. 1 will be transferred to the list of   |
|    |                | ) | Undefended Suits.                          |
|    |                | ) |                                            |
|    |                | ) | Advocate appearing for Defendant No. 5     |
|    |                | ) | undertakes to file Vakalatnama on          |
|    |                | ) | behalf of Defendant No. 5 within two       |
|    |                | ) | weeks from today after waiving service     |
|    |                | ) | of writ of summons. Undertaking is         |
|    |                | ) | accepted. Defendant No. 5 to file          |
|    |                | ) | written statement on or before             |
|    |                | ) | 19.06.2017, failing Suit against           |
|    |                | ) | Defendant No. 5 will be transferred to     |
|    |                | ) | the list of Undefended Suits.              |
|    |                | ) |                                            |

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[illegible]

Upon perusal of plaintiff, it appears that there is amendment and consequential amendment including prayer clause. In that view of the matter, Plaintiffs are directed to serve amended copy of plaintiff upon Defendants including Defendant No. 3 and file Affidavit of Service within two weeks from today, failing Suit against Defendants including Defendant No. 3 will be dismissed for non-compliance of O.S.Rule 87.

In the event, amended copy is served upon Defendant No. 3, Defendant No. 3 to file written statement on or before 19.06.2017, failing Suit against Defendant No. 3 will be transferred to the list of Undefended Suits.

So also, Plaintiffs are directed to take steps to serve with writ of summons with amended copy of plaint upon unserved Defendants on or before 19.06.2017, failing Suit against unserved Defendants will be dismissed for non-compliance of O.S. Rule 87. Office to issue fresh writ of summons, if required and list the matter on board one week well in advance. The returnable date is extended till 19.06.2017.

Date : 03.05.2017

Prothonotary &amp; Senior Master.