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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 44 OF 2019

IN

SUIT NO. 3813 OF 2000

WITH

CONTEMPT PETITION NO. 57 OF 2011

Atcom Technologies Ltd

...Plaintiff

Versus

YA Chunawala & Co & Ors

...Defendants

Ms Shilpa Kapil, with Disha Vaghasiya, for the Petitioner/Applicant.

**Ms Niyati Karla, i/b Negandhi Shah & Himayatullah, for
Defendants Nos. 1, 3 and 4.**

Mr Samir Vaidya, for Defendant No. 2.

CORAM: G.S. PATEL, J

DATED: 17th January 2019

PC:-

1. Ms Kapil on behalf of the Plaintiff in Suit No. 3813 of 2000 has filed a fresh Notice of Motion. Defendant No. 2 has been served through his Advocate. Defendants Nos. 1, 3 and 4 have also been served by registered post acknowledgement due.

2. What the Notice of Motion seeks is that the present suit be segregated or separated from Summary Suit No. 4870 of 1999 and Suit No. 305 of 2000. The Notice of Motion is based principally on

the judgment of the Supreme Court dated 7th May 2018 in Civil Appeal Nos. 4266 and 4267 of 2018 at pages 31 to 45 of the Affidavit in Support. This judgment makes it clear from paragraph 10 onwards that the Supreme Court viewed with extreme disfavour the delay on the part of the Defendants, at that time on the question of filing of the Written Statement.

3. I will grant the present Defendants a brief period to reply to this Notice of Motion. I will not extend that time under any circumstances.

4. I am making it clear that I will not countenance any submission in the manner in which Mr Vaidya today puts it for Defendant No. 2, that the party in question “has a right to seek a recall of the Supreme Court order dated 7th May 2018”. That is not a submission that will ever find favour with this Court. I am bound by that decision, and I will follow it to the letter, irrespective of whatever ‘entitlement’ to which any party may lay claim

5. All Affidavits in Reply are to be filed and served on or before 31st January 2019 with no possibility of an extension. No Affidavit in Rejoinder is to be filed without leave of the Court.

6. List the Notice of Motion for hearing and final disposal on 6th February 2019 along with the Contempt Petition.

(G. S. PATEL, J)