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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION (STAMP) NO.31933 OF 2016

ATPI India Pvt. Ltd.	...Applicants
V/s.	
Swiber Offshore Construction Pte Ltd. & Anr.	...Respondents

Mr.Phoram Raj i/b PRS Legal for the Applicants.

Mr.Rohan Agrawal i/b MDP & Partners for the Respondent No.2.

CORAM : R.D. DHANUKA, J.
DATE : 29TH NOVEMBER, 2016.

P.C. :-

1. Learned counsel appearing for the applicants tenders the affidavit of service and states that both the respondents are served. Affidavit of service is taken on record. None appeared for the respondent no.1 when the matter was called out yesterday at 3:00 p.m. and today.

2. By this Miscellaneous Civil Application the applicants seek transfer of Summary Suit (Lodging) No.12635 of 2016 pending before the Bombay City Civil Court, Mumbai to this Court. Learned counsel for the applicants states that some of the appeals arising out of the arbitration petitions against the respondents are pending before this Court and are being heard by the Division Bench presided by Shri

Justice V.M. Kanade or the other Division Bench. He submits that some of the appeals arising out of the suits in which the respondents herein are parties arising out of the similar transactions are also assigned to the Division Bench hearing such matters.

3. The applicants herein have also filed the suits in the Bombay City Civil Court for recovery of various amounts against the respondent no.1. He submits that the applicants have to recover substantial amounts from the respondent no.1 in the said suit, which party is indebted to large number of creditors, who are parties to the proceedings before the Division Bench of this Court. He submits that the issue involved in the suits which are filed by the applicants before the Bombay City Civil Court is common and similar to the proceedings pending before this Court.

4. Learned counsel appearing for the respondent no.2 has no objection if the proceedings are transferred to this Court as prayed. The statement is accepted.

5. I have heard the learned counsel for the applicants and for the respondent no.2 and have perused the averments made in the misc. civil applications. I am of the view that since the issue arising in the proceedings before this Court and in those two suits being common and the respondent nos.1 and 2 being parties to all these proceedings, the case for transfer of those proceedings to this Court

under section 24 of the Code of Civil Procedure, 1908 is made out by the applicants.

6. I therefore, pass the following order :-

a). The Bombay City Civil Court is directed to transmit the papers and proceedings in Summary Suit (Lodging) No.12635 of 2016 to this Court expeditiously.

b). Upon transfer of those proceedings to the learned single Judge of this Court, liberty is granted to the applicants to apply for clubbing of those proceedings with the pending proceedings.

c). Misc. Civil Application (Stamp) Nos.31933 of 2016 is disposed of in aforesaid terms. No order as to costs.

7. The parties as well as the Bombay City Civil Court to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)