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

SUIT NO. 390 OF 2015

M/s. Emkay Commotrade Ltd.

...Plaintiff

*Versus*

Harish Bengani and Bimal Kumar Bengani

...Defendant

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Mr. Anoop Sharma for the Plaintiff.

Nikhil Patil with Ekta Mistry i/b. Gajanan Shinde for Defendants.  
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CORAM : R.I. CHAGLA J.

DATE : 1 MARCH, 2023.

ORDER :

1. The learned Advocate appearing for the Plaintiff states that the above Suit No.390 of 2015 has been revived by order dated 10th January, 2019. The Suit had been disposed of pursuant to consent order dated 29th August, 2016 filed in Summary Suit No.481 of 2015 and by which Consent Terms, the Plaintiff had agreed to withdraw the above Suit. In view of the Defendants having breached the Consent Terms by not making the payments, the Notice of Motion No.2038 of 2017 had been taken out by the Plaintiff in the present Suit for revival of the withdrawn Suit on account of the default of the Defendant as provided in Clause (v) of the Consent Terms.

2. By the said order dated 10th January, 2019, the Notice of Motion No.2038 of 2017 was made absolute in terms of prayer clause (a). Liberty was granted to make any further application in the revived proceedings. Accordingly, the Plaintiff has applied for revival of Notice of Motion No.1423 of 2015, Notice of Motion No.397 of 2016 and Chamber Summons No.771 of 2016 in accordance with the liberty granted.

3. Having considered the order dated 10th January, 2019 as well as the fact that the Suit No.390 of 2015 has been revived by the said Order, pursuant to the liberty granted by this Court, the Application for revival of the aforementioned Notices of Motion and Chamber Summons is made.

4. Accordingly, the Notice of Motion No.1423 of 2015, Notice of Motion No.397 of 2016 and Chamber Summons No.771 of 2016 filed in Suit No.390 of 2015 are revived and shall be placed on 23rd March, 2023 under the caption for hearing.

**[R.I. CHAGLA J.]**