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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5579 OF 2014

Sintex Industries Limited	...Petitioner
vs	
Cosmos Advertising & Communications	...Respondent.

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Mr Arshad Shaikh Counsel a/w Mr Mahesh Londhe, Ms Shweta Satardekar, Mr Vedant Chhajer I/b Sanjay Udeshi & Co. for the Petitioner.
Ms Amruta Sawant I/b Sonal Doshi & Co. for the Respondent.
Representative of Petitioner – Mangesh B. Tarkar (Asstt. Manager Accounts) present.

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**CORAM : B.P.COLABAWALLA, J.
DECEMBER 18, 2018.**

P.C. :

This Writ Petition challenges the order passed by the Bombay City Civil Court, Bombay dated 20th February, 2014 in Chamber Summons No.2237 of 2013 in Summary Suit No.7093 of 1997. By the impugned order, the Chamber Summons filed by Defendant No.1 (for taking its Written Statement on record) was dismissed by the Trial Court. Hence, the present Writ Petition. After this matter was argued for some time, both the parties have agreed that the following order be passed:-

- (I) Within eight weeks from today, the Petitioner (i.e. Original Defendant No.1 in the Summary Suit No. 7093 of 1997, High Court Summary Suit No.1533 of 1997 pending in the City Civil Court at Greater Bombay) shall furnish the Bank Guarantee of Nationalized Bank for sum of Rs.20,81,706.19/- (Twenty Lakhs Eighty One Thousand Seven Hundred Six and Nineteen Paise only) in favour of the Registrar, the City Civil Court at Greater Bombay.
- (ii) The Petitioner (Orig. Defendant No.1) shall renew the said Bank Guarantee from time to time till the pendency of the aforementioned Suit. In case if the suit is decreed in favour of the Respondent (Original Plaintiff), the Bank Guarantee so given by the Petitioner shall be encashed by the Registrar of the City Civil Court at Greater Bombay and shall abide by any further orders passed by the City Civil Court in that regard. In case the suit is dismissed, the Bank Guarantee so furnished shall be cancelled upon Petitioner submitting copy of the Order dismissing the Suit to the Bank.
- (iii) Upon furnishing of Bank Guarantee as above to the City Civil Court at Greater Bombay, the impugned order dated 20th February, 2014 passed in the Chamber Summons

No.2237 of 2013 in Summary Suit No. 7093 of 1997 shall stand quashed and set aside and the Petitioner shall be allowed to file their Written Statement in the aforesaid Suit and matter will be proceeded with in accordance with Law.

- (iv) In case the Petitioner fails to furnish the Bank Guarantee within eight weeks from today as above, then this this Petition shall stand automatically dismissed and Summary Suit No. 7093 of 1997 (High Court Summary Suit No. 1533 of 1997) will be proceeded with without the Written Statement of Defendant No.1.

2 The Writ Petition, by consent, is disposed of in the aforesaid terms. There shall be no order as to costs.

(B.P.COLABAWALLA, J.)