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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9259 OF 2014

M/s. Ideal Chemicals (I) Pvt. Ltd.	..Petitioner.
V/s.	
M/s. Century Rayon & Ors.	..Respondents.

Mr.Dilip L.Aswani for the petitioner.

Mr.Prashant H.Chande for respondent No.1.

CORAM : M.S.SONAK, J.

DATE : APRIL 1, 2019

P.C.:-

Heard Mr.Aswani, learned counsel for the petitioner and Mr.Chande, learned counsel for respondent No.1.

2. Mr.Aswani, learned counsel for the petitioner states that all the respondents have been served.

3. Challenge in this petition is to the order dated December 20, 2012 and November 7, 2013 in terms of which the petitioner's suit as against defendant No.2 came to be dismissed for failure to pay process fees in respect of the new address on which defendant No.2 was to be served.

4. Without going into the issue about maintainability of the

writ petition on the ground of availability of alternate remedy demonstrating the subject matter of the dispute, the impugned orders are set aside and the suit is ordered to be restored as against original respondent No.2.

5. The aforesaid is based on the basis that the petitioner will, within a period of two weeks from today, pay the necessary process fees and take necessary steps to serve defendant No.2 in the suit.

6. By order dated January 4, 2019, the petitioner was directed to deposit an amount of Rs.20,000/- towards the litigation costs. The petitioner has deposited the costs in this Court. In the peculiar facts and circumstances of the present case, learned counsel for the parties state the said costs may be made over to Tata Cancer Memorial Hospital, Parel, Mumbai. Accordingly, the registry is directed to forward the costs so deposited by the petitioner to Tata Cancer Memorial Hospital, Parel, Mumbai within a period of two weeks from today.

7. Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

8. All concerned to act on the basis of an authenticated copy of this order.

(M.S.SONAK, J.)