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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

Atcom Technologies Ltd	...Plaintiff
<i>Versus</i>	
YA Chunawala & Ors	...Defendants

Ms Shilpa Kapil, *for the Plaintiff and Applicant in Notice of Motion No. 44 of 2019.*

Mr Mutahhar Khan, *with Ms Niyathi Kalra & Ms Rujuta Patil, i/b Negandhi Shah and Himayatullah, for Defendants Nos. 1, 3 and 4.*

Ms Dhannya Prasad, *for Defendant No.2.*

CORAM: G.S. PATEL, J
DATED: 3rd April 2019

PC:-

1. Mentioned. Not on board. Taken on board.

2. I passed an order of 1st April 2019 dismissing the Motion as withdrawn. Today Ms Kapil says that she did not have instructions to withdraw the Notice of Motion. So be it. On her request, the

order is recalled. I will proceed to take up the Motion immediately. None have any objection.

3. The Applicant in the Motion is the original Plaintiff in Suit No. 3813 of 2000, Atcom Technologies Ltd. It seeks that a previous order clubbing this suit along with Summary Suit No. 4870 of 1999 and Suit No. 305 of 1999 be undone and that Atcom's Suit No. 3813 of 2000 be tried separately. There is also a prayer that a consent given by Atcom's sister concern, Kimaya Wellness, to the clubbing of the suit on 16th March 2002 be declared to be not binding on Atcom. There is also a prayer to revoke this consent.

4. In my view, it is not possible to pass any such order. These matters have been clubbed together for a very long time and it is of little consequence that in one particular suit there is no Written Statement for the simple reason that the other suits are cross suits and the defence in one is the plaint in the other and vice versa. To allow this application would effectively mean to give Atcom some sort of walkover by granting a decree although its claim is opposed and contested in the companion suits. Conceivably, very great prejudice would be caused to the Defendants in Atcom's suit if such an order is passed.

5. There is nothing in the Affidavit in Support of this Motion that persuades me to take the view that the Defendants will not be prejudiced by the grant of the relief that Atcom now seeks. On the other hand, Atcom itself is in no way prejudiced if all three suits proceed together as they have for all these years.

6. The Notice of Motion is dismissed.

(G. S. PATEL, J)