

IN THE HIGH COURT OF JUDICATURE AT MUMBAI  
CIVIL APPELLATE JURISDICTION  
CIVIL REVISION APPLICATION NO.179 OF 2015  
WITH  
CIVIL APPLICATION NO.201 OF 2015

Moiz Jafferbhaji Dhorajiwala ... Petitioner  
Vs.  
Lodge Islam No.27 and others ... Respondents

Mr. Ranvir Shekhawat i/b. M/s. Raj Legal for Petitioner.  
Mr. Narayan Sahu a/w. Mr. Shrinivasan Mudaliar i/b. M/s. Federal &  
Rashmikant for Respondent No.7.

**CORAM : R. G. KETKAR, J.**  
**DATE : 23<sup>RD</sup> JUNE, 2015**

**ORDER :**

Heard Mr. Shekhawat, learned Counsel for petitioner and Mr. Sahu, learned Counsel for respondent.

2. By this Petition under Section 115 of the Code of Civil Procedure, 1908 (for short 'C.P.C.'), the original plaintiff has challenged the judgment and order dated 09.08.2012 passed by the learned Judge, City Civil Court, Greater Bombay in Chamber Summons No.851 of 2011 in S.C. Suit No. 1567 of 2010. By that order, the learned trial Judge rejected the Chamber Summons taken out by the petitioner, hereinafter referred to as the plaintiff, for adding respondents No.5, 6 and 7 as defendants No.5 to 7 in the Suit. In view of proviso to Section 115 C.P.C., Petition under Section 115 is not maintainable. Hence, leave to convert C.R.A. into Writ Petition is granted. Amendment shall be carried out within 1 week from today.

3. In support of this Petition, Mr. Shekhawat submitted that in paragraph 31 of the written statement, defendants No.1 to 4 asserted that letters referred in paragraphs 18 to 20 of the plaint were received by the plaintiff from the Regional Grand Lodge of Western India and the said

entity is not made party defendant in the Suit. Plaintiff cannot make any allegations against the said entity without impleading them in the present Suit. He, therefore, submitted that in view of the assertions made by defendants No.1 to 4 in the written statement, plaintiff took out this Chamber Summons for impleading respondents No.5 to 7 as defendants No.5 to 7 in the Suit.

4. With the assistance of the learned Counsel appearing for the parties, I have gone through the email, which is allegedly sent by the proposed defendant No.5 as also the letters at pages 72 to 75. After going through the e-mail as also letters, I do not find that they contain any defamatory statements against the plaintiff. Plaintiff has instituted Suit claiming compensation on the ground that he was defamed in public. Since letters at pages 72 to 75 do not contain any defamatory statement against the plaintiff, I do not find that the learned trial Judge has committed any error in dismissing the Chamber Summons. In view thereof, no case is made out for interfering with the impugned order in exercise of powers under Article 227 of the Constitution of India. Hence, Petition fails and the same is dismissed.

**(R. G. KETKAR, J.)**

*Minal Parab*