

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

APPEAL NO.196 OF 2015
IN
CHAMBER SUMMONS NO.1242 OF 2012
IN
SUIT NO.1384 OF 1986

Ellora Silk Mills Pvt. Ltd. & Ors.		Appellants
V/s.		
Raj Kumar Seth & Ors.		Respondents

Mr. Kishore Jain a/w. Ms. Shweta Jain, i/by
Ms. Divya Jain, for the Appellants.

Mr. Parag Kale for Respondent No.1.

Mr. Devendranath S. Joshi for Respondent
No.16.

CORAM : V.M. KANADE &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 7TH SEPTEMBER, 2015.

P.C. :

1. Heard learned counsel for the parties.

2. Appellants are aggrieved by the order dated 11th December, 2014 passed by the learned Single Judge of this Court. It is submitted that the Chamber Summons was taken out by the Plaintiff for amendment of the plaint, which was filed in the year 1986. It is

submitted that a totally new case of fraud was sought to be made out in the Chamber Summons filed for amendment. It is submitted that the matter was not on Board and it was taken on Board on mentioning and without giving any time to the Appellants, the impugned order allowing the Chamber Summons was passed. It is not in dispute that the matter was not on Board, which can be seen from the order passed by the learned Single Judge. In our view, some time should have been given to the Appellants to respond.

3. On this ground alone, we are setting aside the impugned order dated 11th December, 2014. The matter is remanded back to the learned Single Judge for deciding the same on merit and in accordance with the law, without being influenced by the impugned order.

4. The Appeal stands disposed of in the above terms.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[V.M. KANADE, J.]

C E R T I F I C A T E

Certified to be true and correct copy of the original signed Order.