

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

**CHAMBER SUMMONS NO. 134 OF 2014
WITH
CHAMBER SUMMONS NO. 289 OF 2014
IN
SUIT NO. 2058 OF 2009**

Mrs.Kumar Vijaya Laxmi Putta & Ors. .. Plaintiffs

Vs.

M/s. Sunrise Lifestyles & Homes
Pvt. Ltd. & Ors. .. Defendants

Mr.J.P. Sen senior advocate a/w. Mr.Gautam Ankhad, Mr.Jai Chhabria,
Mr.Hiral Thakkar, Ms.Ayushi Anandpura i/b M/s. Federal & Rashmikan for
plaintiffs.

Mr.Sridhar Chari i/b DSK Legal for defendant no.1.

Mr.Maheshkumar G. i/b P.S. Gidwani for defendant nos.3, 4 & 5.

**CORAM : K.R.SHRIRAM, J.
DATED : 21ST OCTOBER, 2015**

P.C.

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1 This chamber summons is for leave to amend the plaint as per the schedule annexed to the chamber summons. It is stated in the affidavit in support to the chamber summons that the applicant has taken out the chamber summons to place on record the events that have transpired subsequent to the filing of the suit and other proceedings therein. The plaintiffs have filed this suit on 7.08.2009 and it is the case of the plaintiffs

that the defendants had forcefully dispossessed the plaintiffs and confirm that they were in occupation of the plaintiffs.

2 I have considered the proposed amendment and it does appear that the plaintiffs want to introduce the subsequent developments. Order VI, rule 17 of the Code of Civil Procedure reads as under :-

Order VI, Rule 17 :

Amendment of pleadings— The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

3 The status of the suit is the issues are yet to be framed. The Courts have wide discretion when the trial is yet to begin. It is settled that the courts should also be liberal in granting prayer for amendment to the pleadings unless serious prejudice or injustice or irreparable loss is going to be caused to the defendants. The counsel for the plaintiffs states that the defendants, though served a copy of the chamber summons in February

2014, have not filed any reply. At the same time, the counsel for the defendants agrees that in pre-trial stage, the courts generally are liberal in granting amendments to avoid multiplicity of proceedings. The counsel for the defendants only submits that as the plaintiffs are seeking to introduce two additional prayers, the defendants' right to take the defence of limitation be kept open. The counsel for the applicant states that the applicant has no objection.

4 In the circumstances, the chamber summons is disposed of in terms of prayer clause (a), keeping open the issue of limitation.

The plaintiffs to amend the plaint and serve a copy of the amended plaint upon the defendants on or before 6.11.2015. Should the defendants wish to file the written statement/additional written statement, the same to be filed within three weeks of receiving the copy of the amended plaint.

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5 This chamber summons is taken out on behalf of the defendant no.5 to set aside the order passed by the Prothonotary and Senior Master on 13.06.2011 and to condone the delay in filing the written statement and take the written statement on record.

6 In view of the order passed in Chamber Summons No.134 of 2014,

permitting the defendants to file the written statement/additional written statement, the counsel for the plaintiffs, in fairness, submits that this chamber summons also could be allowed.

7 The chamber summons stands disposed in terms of prayer clauses (a), (b) and (c).

8 The suit be listed for directions on 7.12.2015.

(K.R. SHRIRAM, J.)