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

CHAMBER SUMMONS NO.643 OF 2012

IN

SUIT NO.2000 OF 2006

Rizvi Land Developments Pvt. Ltd. ...Plaintiff
vs
Housing Development And Improvement
India Pvt. Ltd. ...Defendant
And
Yusuf Ahmed & Ors. ...Respondent Nos. 1 to 3.
(Proposed Defendants Nos. 2 to 4).

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Mr. E.P. Bharucha, Senior Advocate, a/w. Sarosh Bharucha, i/b. M/s. Udwadia Udeshi & Argus Partners, for the Plaintiff.

Mr. Sanmish Gala, i/b. M/s. Markand Gandhi & Co., for Defendant No.1.

Mr. S.U. Kamdar, Senior Advocate, a/w. Aditya Khandeparkar, Mr. Dharam Jumanani and Mr. R.S. Bidkar, i/b. Hariyani & Co., for Defendant No.3.

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CORAM : S.C. GUPTE, J.

DATED : NOVEMBER, 17, 2015

P.C. :

. The Chamber Summons seeks amendment of the plaint *inter alia* by bringing on record averments to impugn certain rights purportedly created in favour of the Defendant herein by Respondent No.1. The Chamber Summons also seeks to impugn some transactions purportedly executed between Respondent No.1 and Respondent Nos. 2 and 3. The Plaintiff/Applicant claims to be an assignee of leasehold rights in respect of the suit property. The Plaintiff also seeks to restrain the Defendant, who claims through the predecessor-in-interest of the Plaintiff, from carrying out any construction on the suit property or creating any third party rights in

the suit property. The present Chamber Summons is on the footing that when the present suit was filed, the Plaintiff was not aware that based on assignment of reversionary rights of the Plaintiff's predecessors-in-title in favour of Respondent No.1, Respondent No.1 has created some rights in favour of the Defendant herein. So also the Plaintiff claims that, behind its back, some rights have been created by Respondent No.1 in favour of Respondent Nos. 2 and 3. The Plaintiff proposes to accordingly add Respondent Nos. 1, 2 and 3 as party Defendants to the suit and incorporate various averments in respect of the purported transactions. The Plaintiff also proposes to add certain further reliefs in the plaint.

2. The Chamber Summons is opposed by the Defendant *inter alia* on the ground that the reliefs sought to be added impinge upon a slum redevelopment scheme and questions arising thereunder and that jurisdiction of this Court to consider these matters is barred under Section 42 of the Maharashtra Slum Area (Improvement, Clearance and Redevelopment) Act, 1971. The Chamber Summons is also opposed by the Defendant on the ground of bar of limitation.

3. The Chamber Summons seeks to incorporate amendments, which are necessary to be determined having regard to the controversy in the present suit. The Plaintiff would be driven to multiplicity of proceedings if these reliefs are not added in the suit. The question of jurisdiction and limitation are matters of merit, which will have to be decided in the trial.

4. The Chamber Summons is accordingly allowed in terms of prayer clause (a) subject to the questions of jurisdiction and limitation

being kept open, to be agitated by the parties in the trial of the suit. It is also clarified that the Applicant does not press its other prayers in view of the fact that those prayers have already been sought in a Notice of Motion taken out by the Plaintiff and would be pressed in that Notice of Motion. The Chamber Summons is disposed of accordingly. Place Notice of Motion Nos. 3082 of 2009 and 4034 of 2008, for directions on 21 December 2015.

(S.C. GUPTE, J.)