

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

**NOTICE OF MOTION NO. 1203 OF 2012
IN
CHAMBER SUMMONS NO. 658 OF 2012
IN
SUIT NO. 219 OF 2001**

Bank of India	.. Plaintiff
Vs.	
Devendranath R. Chatruvedi & Ors.	.. Defendants

Mr.O.A. Das for plaintiff.

None for defendants.

**CORAM : K.R.SHRIRAM, J.
DATED : 15TH SEPTEMBER, 2015**

P.C.

1 The counsel for the plaintiff states that a copy of the notice of motion has been served upon the defendants. Still nobody is present today. The counsel undertakes to file affidavit of service within one week from today. This notice of motion is for restoration of the suit that came to be dismissed.

2 Mr.Das, advocate appearing for the plaintiff states that though it is stated in paragraph 4 of the affidavit that there was Central Railway problem and nobody attended the office, it was actually he could not remain present due to Central Railway problem and request that his inability to remain present on that day be accepted. In view of what the counsel has stated,

which I accept as true, the notice of motion is allowed in terms of prayer clause (a). The suit is therefore, restored to file.

3 The notice of motion stands disposed of accordingly.

CHAMBER SUMMONS NO. 658 OF 2012

4 The counsel for the applicant states that this chamber summons is taken out to bring on record the legal heirs of defendant no.2. The counsel states that by a letter dated 8.02.2012, the advocate who was appearing for defendant no.2 for the first time informed the plaintiff's advocate that defendant no.2 expired on 5.09.2008. The plaintiff's advocate in response to their letter dated 8.04.2012, called upon the advocate for the deceased defendant no.2 to provide the details of the legal heirs of defendant no.2. The advocate for defendant no.2, by their letter dated 10.02.2012 informed the plaintiff's advocate who the legal heirs of defendant no.2 were and accordingly on 10.04.2012, the chamber summons came to be lodged. The counsel also states that therefore the chamber summons is within time.

5 The counsel Shri Das also mentioned that a copy of the chamber summons has been served upon the legal heirs of defendant no.2 and has

filed an affidavit of service of one Shivaji Mabdayjar affirmed on 7.02.2014.

Nobody is present though served.

6 In the circumstances, having heard the counsel for the applicant and having considered the affidavit in support of the chamber summons, it is a fit case to allow the chamber summons.

7 The chamber summons is, therefore, allowed in terms of prayer clause (a). The plaintiff to carry out amendment and serve a copy of the amended plaint within two weeks from today. Should the newly added defendants wish to file additional written statement, the same to be filed within two weeks of receiving the amended plaint.

9 Suit to be listed on 26.10.2015 for directions.

(K.R. SHRIRAM, J.)

CERTIFICATE

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