

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

**CHAMBER SUMMONS NO. 651 OF 2014
IN
SUIT NO. 357 OF 2004**

Mrs.Mona Dandona

..Applicant/Plaintiff No.3

In the matter between :

1. Marina Resorts Private Limited & Ors.

.. Plaintiffs

Vs.

1. Jayotah Investment & Holdings Pvt. Ltd.

& Anr.

. .. Defendants

Ms.Sunanda Kumbhat for plaintiffs.

Mr.Jaydeep Raut i/b M/s. Arvind Rathod & Co. for defendants.

CORAM : K.R.SHRIRAM, J.

DATED : 5TH JANUARY, 2015

P.C.

1 This chamber summons is taken out by plaintiff no.3 to bring on record the legal heirs of plaintiff no.2 who expired on 10th July 2010 after condoning the delay and also setting aside the order of abatement of the suit.

2 The applicant, i.e., plaintiff no.3 is the wife of deceased plaintiff no.2. In the affidavit in support, it is stated that after the demise of plaintiff no.2 whose death was sudden, the applicant was in great mental trauma and she fell ill. Though no medical report is attached, the counsel for the plaintiffs tenders a copy of report dated 12th October 2011 issued by one

P.H. Medical Centre, Santacruz (W), Mumbai, in which it is mentioned that there was some problem regarding the brain of the applicant.

3 The counsel for the defendants strongly opposes the chamber summons and states that the delay has not been properly explained and the Court should not consider the same.

4 Having considered the affidavit in support of the chamber summons and the medical certificate, a copy whereof has been handed over to the Court, I am inclined to allow the chamber summons. The person who has died is the husband of the applicant. The Court, in my view, should consider such cases a bit sympathetically because when a spouse expires, the surviving spouse and other family go through severe trauma. In this case, the applicant has relied on a medical report which confirms that the applicant had problem with the brain. In the circumstances, the chamber summons is allowed. The amendment to be carried out within two weeks from today. Should the defendants wish to file additional written statement, if any, or amend the existing written statement the same to be completed within two weeks of receiving a copy of the amended plaint.

(K.R. SHRIRAM, J.)