

Sharayu.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 894 OF 2013
AND
CHAMBER SUMMONS (L) NO. 1149 OF 2015
IN
SUIT NO. 777 OF 2013
WITH
NOTICE OF MOTION NO. 1437 OF 2013
AND
NOTICE OF MOTION NO. 1438 OF 2013

Mrs. Madhilika @ Madhu Sharma	...Applicant
<i>In the matter between</i>	
R.C. Sharma & Ors.	...Plaintiffs
<i>Versus</i>	
Shri. Rupchand Premnath Sharma & Ors.	...Defendants

Mr. Parag Kale, i/b , for the Plaintiffs.
Mr. Prakash Gunwani, i/b Mr. Om Prakash Pandya, for the
Defendants No. 1, 3, 4 and 5.
Defendant No. 2 present in person.
Mr. Rafique Mohammed Vanoo, for the Defendants No. 6 & 7.

CORAM: G.S. PATEL, J
DATED: 23rd September 2015

PC:-

1. These two Chamber Summons are identical. The second has an Affidavit in Support with certain further documents. That is the only difference.
2. The Chamber Summonses seek a direction to Defendants No. 1 to 7 to disclose various businesses, properties and assets said to be comprised in the estates of late Premnath Sharma and Smt. Chaltidevi Sharma as also copies of the Balance Sheet, Income and Expenditure Accounts and Returns of the family businesses from 2008 to 2009 onwards. Prayer (c) is for deposit of the title deeds of various immovable properties.
3. Defendants No. 1 to 7 have already filed Affidavits in which they have disclosed what, according to them, was comprised in the estate of the two deceased. They do not dispute that the Plaintiff is entitled to 1/8th share in those estates. What Mr. Kale for the Plaintiff seeks is a disclosure of additional properties and assets, which he claims are also part of these two estates. This is most strenuously disputed by Defendants No. 1 to 7, who say that an attempt is been made to force a disclosure of personal assets and properties of Defendants No. 1 to 7.
4. Mr. Kale is unable to show except from some generic Internet material how that there is any property that constituted joint family property, was a part of the family business or was comprised in the estates but has been withheld from the disclosures so far made. Without at least a minimal amount of material being put forward, it is not possible to grant relief sought. It will certainly be open to Mr. Kale to show at the trial of the Suit, either through

his own witness's evidence or in cross-examination of the Defendants' witnesses that there were properties and assets that belong to the two estates but which were not disclosed, or that they should have been disclosed, and further to invite an adverse inference against the Defendants on that basis. This is the Plaintiff's right and it is certainly cannot be curtailed. At the same time, it is not possible to accept the Plaintiff's request for a disclosure that is on such wide terms without it being supported by some basic material to establish that claim.

5. Leaving open the rights of the Plaintiffs as observed above, the two Chamber Summonses are dismissed with no order as to costs.

(G. S. PATEL, J.)

CERTIFICATE

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