

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO.979 OF 2015
IN
SUIT NO.162 OF 2014**

Nahalchand Laloochand Pvt. Ltd.	...	Applicant
and		
Shakuntala Parshuram Patil and Ors.	...	Plaintiffs
versus		
Nahalchand Laloochand Pvt. Ltd. and Ors.	...	Defendants

Mr. S.D.Mishra, for Plaintiff.

Mr. Rajesh Kachare i/by Mr. A.A.Palkar, for Defendant Nos.1 to 3 and in support of CHS.

CORAM: S.J. KATHAWALLA, J.

DATE: 8th DECEMBER, 2015

P.C.:

1. On 8th July, 2015 this Court framed the following issues :

“(i) Whether the Suit is barred by Law of Limitation ?

(ii) Whether the Plaintiffs prove that they are the owners of the Suit property ?

(iii) Whether the Defendants prove that they have legally acquired the title to the Suit property under the Conveyance Deed dated 11th September, 1994 ?

(iv) Whether the Defendants prove that they have legally acquired the title to the Suit property by virtue of Release Deed dated 6th September, 2002 executed by Plaintiff Nos. 1, 10, 15 and 19 ?

(v) Whether the Plaintiffs are entitled to possession of the Suit property from the Defendant Nos. 1 to 3 ?

(vi) What decree and order ?”

2. The Applicants/Defendants have moved the present Chamber Summons for recasting of the said issues, more particularly issue Nos.(iii) and (iv). It is correctly pointed out by the learned Advocate for the Defendants that since it is the Plaintiffs who have in their Suit sought reliefs to the effect that two Deed of Conveyance dated 11-09-1994 and the Power of Attorney dated 29-12-1989 and Release Deed dated 06-09-2002 be declared as illegal, null and void and not enforceable in law, the burden will be on the Plaintiffs to establish the same and not on the Defendants. In view thereof, issue Nos.(iii) and (iv) are re-casted as follows :

(iii) Whether the Plaintiffs prove that the two Deed of Conveyance dated 11-09-1994 being Exh. G and G-1 to the Plaint are illegal, null and void?

(iv) Whether the Plaintiffs prove that the Power of Attorney dated 29-12-1989 and Release Deed dated 06-09-2002 are illegal, null and void, forged and not enforceable in law ?

3. The following issue is framed as Issue No. i(a) :

“Whether the present Suit is bad for non-joinder of necessary parties” ?

4. The Chamber Summons is accordingly disposed of.

5. The Plaintiffs and Defendants shall file their Affidavit of Documents and Compilation of Documents on or before 21-12-2015

(S.J.KATHAWALLA,J.)