

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 1067 OF 2015

IN

SUIT NO. 183 OF 2013

Mrs. Heena Halaney ... Applicant

In the matter of:

Sultan Ali Manekia and another ... Plaintiffs

Versus

Zameer Mukhtar Manekia and others ... Defendants

Dr. Abhinav Chandrachud, along with Mr. Dileep Sabale, instructed by M/s. Mulani & Co., for the Applicant.

Mr. Mohan Pungaliya, instructed by Mr. Neel Pungaliya, for Defendant No.1.

Ms. Sheetal Mehta, instructed by Mr. Yogesh Adhia, for Defendant No. 2 A.

Ms. Shonali Dighe, Addl. Prothonotary and next friend, present.

CORAM: S.J. KATHAWALLA, J.

DATE: 9th September, 2015

P.C.

1. Chamber Summons No. 1067 of 2015 was taken up for hearing this morning. The learned advocate appearing on behalf of Defendant No. 1 stated that it was not his contention that the present suit has abated on account of the death of Plaintiff No. 1 on 25 April 2015.

Accordingly, the present Chamber Summons is made absolute in terms of prayer clauses (a) and (b), which are reproduced as under:

“ (a) *Delay of 7 days be condoned.*

(b) that this Hon’ble Court be pleased to declare that the present suit shall not abate on account of the demise of Plaintiff No. 1 on 25 April 2015, under Order XXII of the Code of Civil Procedure, 1908”

2. It is clarified that the learned Court Officer, Ms. Shonali Dighe, Master & Asstt. Prothonotary (Judl) (Writ Registrar), who was appointed as the next friend of Plaintiff No. 1 (now deceased) by an order of this court dated 1 August 2013 and whose name was substituted in place of Plaintiff No. 2 by an order of this court dated 28 October 2013, shall continue to act as Plaintiff No. 2 in the present suit.

3. The remuneration for Ms. Dighe in this matter was fixed at Rs. 7,500/- per month under paragraph (iv) of the said order of this court dated 28 October 2013. For the time being, the same shall be borne by Defendant No. 1 and Defendant No. 4 equally. Once the plaint has

been amended to add further parties to the suit, in pursuance of Chamber Summons 327 of 2013, the ratio in which the respective parties shall bear the said costs will be adjusted on a future date.

4. Defendant No. 4 (who was originally Plaintiff No. 2) may seek liberty from the court to amend the plaint." Alternatively, Defendant No. 4 may request Ms. Dighe to file such an amendment application herself as Plaintiff No. 2. As a court officer exercising independent judgment in the matter, if Ms. Dighe does not consent to filing such amendment application as Plaintiff No. 2, she shall nonetheless place such application before the court.

Chamber Summons is accordingly disposed off.

(S.J. KATHAWALLA, J.)

CERTIFICATE

" Certified to be true and correct copy of the original signed order"