

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

**NOTICE OF MOTION NO.2285 OF 2012
WITH
NOTICE OF MOTION NO.840 OF 2010
IN
SUIT NO.847 OF 2010**

Ruksar Amrohi

....Applicant/Org. Def. No.3

IN THE MATTER BETWEEN :

D.B. Realty Limited

....Plaintiff

V/s.

Mahal Pictures Pvt. Ltd. & Ors.Defendants

Mr. Nishant Sasidharan a/w Mr. Darshan R. Mehta and Ms. Shreya Jha i/b. M/s. Dhruve Liladhar & Co. for the plaintiff.

Mr. Jayesh Mestry i/b. RMG Law Associates for the defendant no.1.

Mr. Raj Mehta i/b. RKM Legal Services for the defendant no.2.

Mr. R. Bhargavan for the defendant nos.3,4 and 7.

Mr. Ajit Hon i/b. Pramod Patil for the defendant nos.5 and 6.

**CORAM : K.R.SHRIRAM,J
DATE : 12th October, 2015**

P.C.:-

1 The notice of motion no.2285 of 2012 is taken out to recall the ex-parte order passed on 28th December, 2011 by the Prothonotary and Senior Master permitting amendment on an application by the substituted plaintiff by way of a chamber order.

2 The original plaintiff late Shandar Kamal Amrohi had filed the above suit in March,2010 for the reliefs as prayed in the suit. The plaintiff had also taken out notice of motion no.840 of 2010 which alongwith the copy of the plaint was served upon all the defendants. The notice of motion was heard on merits and the Hon'ble Court was pleased to pass interim orders in the said notice of motion. That order came to an end on 19th March, 2010. The original plaintiff expired on 21st August, 2011. After the demise of the original plaintiff, the present plaintiff – D.B. Realty Limited came forward seeking amendment by preferring a chamber order before the Prothonotary and Senior Master. It is the case of the applicant that this chamber order was not served on the defendant nos.3,4 and 7 but an incorrect statement was made by the plaintiff to the Prothonotary and Senior Master that all the defendants have been served.

3 The counsel for D.B. Realty Limited, the substitute plaintiff, in fairness concedes that infact an erroneous statement that defendant nos.3,4 and 7 have been served had been made to the Prothonotary and Senior Master which came to light later.

4 In view of the statement made by the counsel for the substitute plaintiff – D.B. Realty Limited and as defendant nos.3,4

and 7 had not been served a copy of the chamber order, it is a fit case to recall the order dated 28th December, 2011 passed by the Prothonotary and Senior Master, directing the substitute plaintiff – D.B. Realty Limited to be added as plaintiff to the suit. In this suit name of D.B. Realty Limited as plaintiff be struck off from the records and pleadings.

5 The notice of motion is disposed accordingly.

6 The counsel appearing for D.B. Realty Limited states that they have preferred a chamber summons no.1178 of 2015 for the same relief that they had sought before the Prothonotary and Senior Master. The counsel, therefore, requests that the said chamber summons be heard expeditiously since it would otherwise leave an anomalous situation that there is no plaintiff. The defendant nos.3,4 and 7 have filed their affidavit in reply. The applicant's affidavit in rejoinder be taken on record.

7 The Chamber Summons No.1178 of 2015 be listed for hearing on 27th October, 2015.

(K.R.SHRIRAM,J)

CERTIFICATE

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