

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1308/2015
IN
SUMMARY SUIT NO.366/2014

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. C. J. Joveson for the Plaintiff
Ms. Sapra Leena Dungarshi for the Defendant

CORAM : K. K. TATED, J.

DATE : DECEMBER 9, 2015

P.C.:

1. Heard. This Chamber Summons is filed by the Plaintiff for carrying out appropriate amendment in the plaint as per the schedule on page 4 to place on record a RTGS transaction request form issued by the Standard Chartered Bank to show that the loan amount was transferred to the Defendant by RTGS on 26/04/2012.

2. The Plaintiff also seeks permission to allow them to bring on record notices dated 26/07/2012 and 08/08/2012 issued to Defendant in respect of the loan transactions. The Plaintiff also seeks liberty to replace Exhibit-H statement of claim. He submits that at the time of filing Summary Suit, they stated in the statement of claim that on

15/01/2014 the principal amount was Rs.3,09,98,410/- and interest @ 24% was Rs.92,23,507/- thus total claim was Rs.4,02,21,917. He submits that by carrying out appropriate amendment, the Plaintiff wants to place on record details of statement of claim without changing the total amount due and payable by the Defendant. He submits that in the interest of justice, this Hon'ble Court be pleased to allow the Applicant to carry out appropriate amendment in the plaint. He submits that if amendment is not allowed, irreparable loss will cause to the Plaintiff.

3. On the other hand, the learned counsel for the Defendant vehemently opposed the Chamber Summons. The learned counsel for the Defendant submits that in the present proceedings, the Plaintiff filed Summons for Judgment bearing No.35/2014. The Defendant already filed their Affidavit-in-Reply dated 26/10/2015 to oppose the said Summons for Judgment. She submits that after disclosing the Defendant's defence in the present proceedings, the Applicant Plaintiff filed the present Chamber Summons. She submits that if at this stage, the Chamber Summons is allowed, irreparable loss will cause to the Defendant. She submits that the

Defendant company already registered with the BIFR. Hence, hearing of the present Chamber Summons is to be stayed. On the basis of this submission, the learned counsel for the Defendant submits that there is no substance in the Chamber Summons. Same be dismissed with costs.

4. Heard both sides at length. Bare reading of the proposed amendment as per the schedule, shows that the Plaintiff wants to place on record better and true facts about their claim. Even the amended statement of claim shows that the Plaintiff is claiming same amount giving details. In any case, if amendment is allowed, nature of the suit is not going to change at all. Though the Defendant company is registered with the BIFR, interim Application like an amendment can be heard and decided on its own merits.

5. Considering the above mentioned facts, I am of the opinion that the Plaintiff Applicant has made out a case for allowing the Chamber Summons.

6. Hence, the following order is passed:

a. The Applicant Plaintiff is permitted to carry out amendment in the plaint and other Applications as per schedule to the Chamber

Summons on or before 08/01/2016 failing which the Chamber Summons shall stand dismissed without further reference to the court.

b. If amendment is carried out within stipulated time as stated hereinabove, the Plaintiff is directed to serve an amended copy of the plaint with Summons for Judgment on the Defendant within 2 weeks from the date of carrying out amendment and file Affidavit of service.

c. Chamber Summons stands disposed of accordingly.

d. No order as to costs.

JUDGE