

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

**CHAMBER SUMMONS NO.1268 OF 2015
IN
SUIT NO.53 OF 2007**

Indian Advisory Partners Pvt. Ltd. & Anr.Applicants/Plaintiffs

IN THE MATTER BETWEEN :

Indian Advisory Partners Pvt. Ltd. & Anr.Plaintiffs

V/s.

Ranbaxy Laboratories LimitedDefendants

Ms. Alpana Ghone i/b. Kanga & Co. for the plaintiffs.

Mr. U.J. Makhija a/w Mr. Vikas Kumar i/b. Mr. Anil T. Agarwal for the defendants.

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

P.C.:-

1 On 20th February, 2015, the affidavit in lieu of examination in chief of the plaintiffs' first witness – Kaikhushru V. Taraporevala (PW-1) was taken on record. The documents relied upon by the plaintiffs produced through PW-1 was also taken on record. The Commissioner was appointed to record evidence.

2 When the matter was listed on 29th September, 2015 for directions, it was mentioned by the counsel for the plaintiffs that the evidence of PW-1 was in progress. The counsel further submitted

that the cross examination of PW-1 has taken place only on one date and on that date it came to light that one issue as to jurisdiction has not been included in the issues that were settled on 15th November, 2014. The counsel for the defendants agreed and additional issue “as to whether this court has jurisdiction to receive, try and dispose of the suit was added”.

3 The counsel for the plaintiffs seeks leave to file additional evidence of PW-1 restricted purely to answer the issue of jurisdiction and nothing more.

4 Mr. Makhija, the counsel for the defendants strongly opposes and states that as the cross examination of PW-1 has begun, no additional evidence should be permitted to be laid in affidavit in lieu of examination in chief of PW-1. The counsel further submitted that in paragraph 28 of the plaint, there is an averment that this court has jurisdiction and in the written statement in paragraph 33 the defendants have denied that this court has jurisdiction. Mr. Makhija, submits that in view thereof the plaintiffs should have been aware that jurisdiction will be an issue and should have dealt with it in Exhibit P-1. The counsel further submitted that that was a lacuna which plaintiffs are trying to correct.

5 When issues are framed, the points in controversy between the parties are stated clearly. The parties would know as to how many witnesses they have to summon and what documents these witnesses would be called upon to produce to answer those issues. Admittedly jurisdiction was an issue which had been missed out when the issues were settled. This court also has powers to raise the issue of jurisdiction. Moreover, jurisdiction issue is not something where the defendants will be prejudiced if the plaintiffs are permitted to give further evidence.

6 In the circumstances, I am inclined to permit the plaintiffs to file further evidence in lieu of examination in chief of PW-1. It is, however, clarified that the further evidence will be restricted purely to the issue of jurisdiction and will be restricted to the averment made in paragraph 28 of the plaint which reads as under :-

“The defendants carried on business at Mumbai. This Hon'ble Court therefore has jurisdiction to try and dispose of the suit”.

7 The plaintiffs to file their additional evidence within two weeks from today. However the plaintiffs to serve an unaffirmed copy of the additional evidence on or before 20th October, 2015.

8 Stand over to 26th October, 2015 on which date PW-1 shall remain present in court.

(K.R.SHRIRAM,J)

CERTIFICATE

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