

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1420 OF 2016**

Abdul Sattar s/o Abdul Bulaque
Farooqui

Petitioner

Vs

1. A.H.Wadia Charitable Trust,
and Ors.

.. Respondents

Mr.R.V.Govilkar i/b Nadir B. Khan, Advocate for Petitioner.
Mr.Yahya Goghairi a/w Mr. Pratik V. Shah i/b VIGIL JURIS,
Advocates for Respondents No. 1 to 5.

CORAM : R.G.KETKAR,J.
DATE : 28/03/2016

PC:

1. Heard Mr.R.V.Govilkar, learned counsel for the petitioner and Mr. Yahya Goghari, learned counsel for respondents no. 1 to 5 at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the Judgment and order dated 27.10.2015 passed by the learned Judge, presiding over court no.2 of City Civil Court at Mumbai, Borivali Division, Dindoshi, Goregaon, Mumbai, in Chamber Summons No. 836 of 2015 in S.C. Suit No.299 of 2005. By that order, the learned trial Judge rejected the Chamber Summons taken out by the petitioner.

3. Mr. Govilkar has tendered photocopy of the order dated 18.3.2016 passed by the learned trial Judge in Chamber Summons No.187 of 2016. The learned trial Judge partly allowed the Chamber Summons and permitted the petitioner/plaintiff to

carry out the amendment to the extent of paragraph 42-A within seven days by depositing costs of Rs.20,000/-. The same is taken on record and marked 'X' for identification.

4. Mr. Govilkar has also tendered paragraph 42-A of Schedule of Amendment to the said Chamber Summons. That is also taken on record and marked "Y" for identification. Perusal of paragraph 42-A in Schedule at 'Y' shows that the petitioner has referred to Application No. 8 of 1998 made by him to the Charity Commissioner seeking permission to sue the defendant-trust. By order dated 22.10.1999, the Charity Commissioner gave permission to sue the defendant. He has also tendered photocopy of proceedings before the Charity Commissioner which is taken on record and marked 'Z' for identification.

5. Mr. Govilkar states that the petitioner is present in the Court. Upon taking instructions from him, Mr. Govilkar does not press this petition on the ground that purpose of filing the Chamber Summons in the present case is served in view of the order dated 18.3.2016.

6. In view thereof, Petition is disposed of as not pressed. Liberty is reserved to the parties to apply for expeditious disposal of the suit. If such application is made, the learned trial Judge will pass appropriate order. Order accordingly.

(R.G.KETKAR, J.)