

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4313 OF 2015**

Mr. Vidyasagar Sah Petitioner
Vs
1.Survival Systems Ltd and Ors .. Respondents

Mr. Mayur Khandeparkar along with Ms. Jyoti Ghag and Ms Mansi Patel i/b M/s Thakore Jariwala and Associates, Advocates, for Petitioner.

Mr.Jayesh Mestry i/b R.M.S.Law Associates, Advocates for Respondent no.1.

Mr Ankit Lohia a/w Mr Devesh Juvekar, Ms Kavita B Chavan, Mr Rishabh Jaisani i/b rajani Singhania and Partners, Advocates for Respondent no.2.

Mr. Virag Kandpile i/b M/s Vyas and Bhalwal, Advocate for Respondent no.3

CORAM : R.G.KETKAR,J.
DATE : 16/02/2016

PC:

1. Heard Mr. Mayur Khandeparkar, learned counsel for the petitioner, Mr. Jayesh Mestry, learned counsel for respondent no.1, Mr Ankit Lohia, learned counsel for respondent no.2 and Mr Virag Kandpile, learned counsel for respondent no.3 at length.

2. Rule. Learned counsel for the respective respondents waive service. At the request and by consent of the parties, Rule is made returnable forthwith and Petition is taken up for final hearing.

3. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the Judgment and order

dated 3.3.2015 passed by the learned Judge, presiding over Court Room No.10 of Bombay City Civil Court at Bombay in Chamber Summons No.1704 of 2011 in S.C.Suit No.7849 of 2004. By that order, the learned trial Judge rejected the Chamber Summons taken out by the petitioner, hereinafter referred to as 'plaintiff', for amending the plaint.

4. After arguing the petition for quite some, learned counsel for the respondents submit that by consent the impugned order may be set aside and the Chamber Summons may be restored to the file of the trial Court for deciding it afresh. They further stated that all the contentions of the parties may be kept open.

5. In view thereof, by consent of the parties, impugned order is quashed and set aside and Chamber Summons No.1704 of 2011 in S.C.Suit No.7849 of 2004 is restored to the file of the trial Court. All contentions of the parties are expressly kept open.

6. Rule is made absolute in the aforesaid terms with no order as to costs.

7. Parties including City Civil Court to act on the authenticated copy of this order.

(R.G.KETKAR, J.)