

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION**

WRIT PETITION NO.8315 OF 2014

Shri Chetnarayan Jagwanta Patel & Ors. Petitioners

Versus

Mrs. Prabhavati Rajaram Patel & Ors. Respondents

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Mr. R. D. Mishra for the petitioners.

Ms. Poonam Utekar for respondent nos.1 to 3.

Mr. Madhur Surana for respondent no.5

Mr. S. P. Thorat for respondent no.6.

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CORAM : N. M. Jamdar, J.

Tuesday 23 AUGUST, 2016

P. C.

. The petitioners challenge order dated 26 June, 2014 rejecting the Chamber Summons No. 920 of 2013 in S. C. suit No.1770 of 2012.

2. Heard the learned counsel for the parties.

3. The Chamber Summons was moved by the applicant on the ground that they are heirs of one Mr. Jagwanta Patel. The learned Judge of City Civil Court has rejected the Chamber Summons on the ground that the Chamber Summons was taken out by the Constituted Attorney and therefore it could not be considered.

4. Considering the nature of the jurisdiction that the petitioner seeks to invoke, query was put to the learned counsel for the petitioners as to why the petitioners themselves cannot file a Chamber Summons without taking recourse to the Constituted Attorney. No such difficulty has been shown by the petitioners. That being the position it is not necessary to enter into an academic question of law as no prejudice is caused to the petitioners by the impugned order. If the petitioners file a Chamber Summons themselves the impugned order obviously will not come in their way as it does not reject the Chamber Summons in merits.

5. The writ petition is disposed of.

(N. M. Jamdar, J.)