

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

WRIT PETITION NO.1044 OF 2016

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.Santosh Anchan i/b Duttmenon Dunmorrsett
for the petitioner

Mr.S.R.Tejal with Mr.A.R.Varma i/b M/s.Tejpai and
Co. for the respondent nos.11 and 12

Ms.Krushika Bartiwalla i/b M/s.ALMT Legal for the
respondent nos.3 to 5, and 17

Mr.Prakash Mahadik for the respondent no.22

CORAM : K. K. TATED, J.
DATE : JUNE 10, 2016

P.C.:

1 Heard the learned counsel for the
2 By this petition, under Article 227 of the
Constitution of India, petitioner plaintiff is
challenging the order dated 29.10.2014 passed by
City Civil Court, Greater Mumbai in Chamber
Summons No.1087 of 2014 in Suit No.7530 of
2001 (High Court Suit No.2823 of 2001) rejecting
petitioner plaintiffs' Chamber Summons for

carrying out amendment in the plaint.

3 The learned counsel for the petitioner plaintiff submits that initially they filed the Suit in the High Court on Original Side. At that time, they valued the suit for the purpose of Court fees at Rs.1 crore only and paid the court fees of Rs.75,000/-. He submits that during the pendency of the present Suit, there is increase in the market value of the suit property. Hence, plaintiff should be permitted to amend paragraph 29 of the plaint by showing the claim in the Suit for Rs.1,70,00,000/- He submits that these facts are not properly considered by the respondent. Hence, the present writ petition.

4 It is to be noted that in the present proceeding, initially the plaintiff filed suit in the High Court. At that time they valued the suit for the purpose of court fees and jurisdiction at Rs.1 crore. Paragraph 29 of the said plaint reads thus :

“29. For the purpose of Court Fees and jurisdiction the Suit claim is valued at Rs.1 crore and the Plaintiffs have paid the Court fees of Rs.75,000/- accordingly.”

5 Thus, because matter is pending since 2001 and there is increase in the market value of the suit

property, plaintiff cannot be allowed to amend the claim in the Suit. These facts are considered by the Trial Court. In any case, Chamber Summons was preferred by plaintiff for carrying out amendment after more than 13 years.

6 Considering these facts, I do not find any substance in the present Writ Petition.

7 Writ Petition stands rejected.

JUDGE