

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

***CHAMBER SUMMONS NO. 36 OF 2012
IN
SUIT NO. 2865 OF 2011***

The Bank of New York Mellon,
London Branch (Formerly Known as
the Bank of New York, London Branch .. Plaintiff

Vs.
Zenith Infotech Ltd. & Ors. ... Defendants

***WITH
NOTICE OF MOTION NO. 3527 OF 2011
IN
SUIT NO. 2865 OF 2011***

***WITH
CHAMBER SUMMONS NO. 346 OF 2012
IN
SUIT NO. 2865 OF 2011***

***WITH
NOTICE OF MOTION NO. 2479 OF 2012
WITH
NOTICE OF MOTION NO. 3520 OF 2011
WITH
NOTICE OF MOTION NO. 3527 OF 2011
IN
SUIT NO. 2865 OF 2011***

***WITH
CHAMBER SUMMONS NO. 112 OF 2013***

IN
SUIT NO. 2865 OF 2011
WITH

CHAMBER SUMMONS NO. 444 OF 2014
IN
SUIT NO. 2865 OF 2011

WITH
NOTICE OF MOTION NO. 858 OF 2014
IN
SUIT NO. 2865 OF 2011

...

Ms. Gargi Vyas i/b. AZB and Partners for Plaintiff.

Mr. J. P. Sen, Senior Advocate for Defendant No. 1 (in liquidation);

Mr. Siddharth Ratho i/b. Nishith Desai Associates for Defendant
Nos. 2 and 4.

Mr. P. A. Kabadi a/w Ms. Mrinalini Rajpal i/b. Doijode Associates
for Defendant Nos. 5 & 6.

CORAM : K. R. SHRIRAM, J.
DATE : SEPTEMBER 7, 2016.

P.C.:

CHS No. 36 of 2012 :-

1. This is a chamber summons taken out on behalf of Defendant No. 2 to amend the cause title, the plaint and all other connected pleadings in view of change of name of Defendant No.2 from '**Zenith RMM, LLC**' to '**Continuum Managed Services, LLC**'. The counsel for the applicant states that due to over sight, they did not annexe a copy of the certificate of the amendment to the affidavit-in-support, though in the affidavit-in-support it is stated

that the copy of the same is annexed as Annexure 'A'. The learned Advocate tenders a copy of the Certificate of Amendment to Certificate of Formation of Zenith RMM, LLC issued by the Chief Executive Officer, State of Delaware, Secretary of State, Division of Corporations on 5th December 2016. The copy of the said certificate is taken on record and marked as 'X' for identification. The counsel appearing for the plaintiff and the Defendant Nos. 5 and 6 and for the Official Liquidator of Defendant No. 1 have no objection. In view thereof chamber summons is allowed in terms of prayer clause (a).

2. The plaintiff to carry out amendment to the cause title and serve a copy of the amended cause title upon all the parties within 2 weeks from today.

CHS No. 112 of 2013: -

1. This is a chamber summons taken out on behalf of Defendant No. 2 to amend the cause title, the plaint and all other connected pleadings in view of change of name of Defendant No.2 from '**Zenith Monitoring Services Pvt. Ltd.**' to '**Continuum Managed Solutions Private Limited**'. The copy of fresh certificate

of incorporation consequent upon change of name issued by the Registrar of Companies, Maharashtra, Mumbai on 11th September 2012 is also annexed to affidavit-in-support. The counsels appearing for the plaintiff and the Defendant Nos. 5 and 6 and for the Official Liquidator of Defendant No. 1 have no objection. In view thereof, chamber summons is allowed in terms of prayer clause (a).

2. The plaintiffs to carry out amendment to the cause title and serve a copy of the amended cause title upon all the parties within 2 weeks from today.

CHS No. 444 of 2014:-

1. This chamber summons is taken out on behalf of the plaintiff for leave to amend the plaint as per the schedule annexed therein. In this suit the defendants are yet to file written statement. Therefore, no prejudice will be caused to the defendants if the amendment is permitted. Moreover, I have also considered the schedule of amendment. I see nothing in that to conclude that there is anything *mala fide* or changes the entire cause of action or that it will be barred by limitation. Amendments basically are to

include new addresses of different defendants to the jurisdiction clauses. In the circumstances, the chamber summons is allowed in terms of prayer clause (a). The amendment to be carried out within 2 weeks and the amended plaint to be served upon the defendants within two weeks thereafter.

2. All the defendants should file their written statements within 4 weeks from receiving amended copy of the plaint.

3. The statement of the counsel for the plaintiff that leave under Section 446 of the Companies Act, has been obtained as regards Defendant No. 1 is concerned, is accepted. The counsel for the Plaintiff states that they will provide a copy of the order granting leave under Section 446 to all the defendants within two weeks from today.

CHS No. 346 of 2012 :-

1. The counsel appearing for the applicants states that the Chamber Summons has become infructuous. The same accordingly is disposed.

2. All the Notices of Motion, i.e., Notice of Motion No. 3527 of 2011, Notice of Motion No. 2479 of 2012, Notice of

Motion No. 3520 of 2011 and Notice of Motion No. 858 of 2014
be listed for hearing on 13th October 2016.

(K. R. SHRIRAM, J.)