

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

CHAMBER SUMMONS NO. 392 OF 2015

IN

SUIT NO. 358 OF 2013

V-Ten Realty Private Limited

.. Applicant

In the matter of :=

V-Ten Realty Private Limited

.. Plaintiff

Vs.

M/s. Jogeshwari Estates & Ors.

.. Defendants

Ms. Kausar Bantawala i/b Tushar Goradia for plaintiff.

Mr.Siddharth Ranade a/w. Mr.Chandansingh Shekhawat i/b ALMT Legal
for defendant nos.1, 3 and 4.

CORAM : K.R.SHRIRAM, J.

DATE : 20TH AUGUST, 2016

P.C.

1 At the outset, the counsel for the plaintiff-applicant seeks leave to amend the Schedule annexed to the chamber summons.

Leave granted. Amendment to be carried out forthwith.

2 This chamber summons is to bring on record the legal heirs of defendant no.3 who expired on 27th March 2014. Though the chamber summons has been served on the legal heirs of defendant no.3 sometime in January 2015, no reply has been filed. The counsel for the legal heirs of defendant no.3 is seeking time today to put in a reply.

3 I am not inclined to grant any further time. Defendant no.3 expired on 27th March 2014. In that letter dated 21st April 2014, the name of only one legal heir is mentioned. The plaintiff, by a letter dated, 22nd April 2014, was informed that there were other legal heirs of defendant no.3 and finally by a letter dated 30th July 2014 was informed the names of three legal heirs of the deceased defendant no.3. The plaintiff has filed this chamber summons to bring them on record and are proposing to add them as defendant nos.3A, 3B and 3C. The 90 days from 30th July 2014, the date of last communication, expired sometime in the end of October 2014 and the plaintiff could have applied within 60 days thereafter for condoning the delay and to recall the abatement of the suit.

4 I have considered the affidavit in support. The plaintiff has explained why they could not take out the application earlier. It is settled law that in a situation like this, the Courts should not take a very strict and pedantic approach and if there are explanations given, even if it may not sound very very satisfactory, still the Court should, in the interest of justice, condone such delay. In this case, the plaintiff has given explanation and I found that to be acceptable.

5 In the circumstances, I am inclined to allow the chamber summons. The chamber summons is allowed in terms of prayer clauses (a), (b) and (c). The plaint to be amended and copy of the amended plaint to be served within two weeks from today. The counsel for the newly added defendant nos.3A, 3B and 3C waives service of any fresh writ of summons.

6 The defendants to file written statement, if not already filed, and serve a copy upon the others within two weeks from receiving a copy of the amended plaint. Should defendant nos. 3A, 3B and 3C wish to file further written statement, the same to be filed and copy served within two weeks from receiving a copy of the amended plaint.

7 The suit to come up in due course.

(K.R. SHRIRAM, J.)