

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

**CHAMBER SUMMONS NO.394 OF 2016
IN
SUMMARY SUIT NO.946 OF 2013**

Ahlwalia Contracts India Limited and Anr.)....Plaintiffs/Applicants
V/s.

M/s.Sheth Developers Pvt. Ltd.)....Defendants

Dr.G.R.Sharma a/w Mr.D.P.Singh for plaintiffs/applicants.

Ms.Alpana Ghone a/w Mr.Ravi Gandhi and Mr.Rashmin Jain i/by
Kanga & Co. for defendants.

**CORAM : K.R.SHRIRAM,J
DATE : 20.12.2016**

P.C.:-

1 This chamber summons is taken out for leave to amend the plaint. Order 6 Rule 17 of the Code of Civil Procedure, 1908 reads as under :-

“Amendment of pleadings – The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be mad as may be necessary for the purpose of determining the real questions in controversy between the parties :

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

2 The counsel for the defendants strongly opposes the chamber summons and states that part of the claim will be time barred if the proposed amendments are allowed. I have considered

the proposed amendment and no new prayer is being added. Therefore, the question of any part of the prayer clause being time barred would not really arise. I do not find the nature and character of the suit being changed by the proposed amendment and I see no malafide on the part of the applicant in praying for amending the plaint. In my view, no prejudice would be caused to the defendants as well if the amendment application is allowed. At the same time, the issues are also yet to be settled.

3 Chamber summons therefore, allowed in terms of prayer clause-(a), keeping open the rights of the defendants to file further written statement in which all defences permissible in law could be taken. Amendment to be carried out and amended plaint to be served within three weeks from today. Further written statement to be filed within three weeks thereafter.

Suit be listed for further directions on 3.2.2017.

(K.R.SHRIRAM,J)