

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

**CHAMBER SUMMONS NO. 262 OF 2015
WITH
NOTICE OF MOTION NO. 2341 OF 2010
WITH
NOTICE OF MOTION NO. 3093 OF 2011
IN
SUIT NO. 2035 OF 2010**

Ajitprasad Mathurprasad & Anr. .. Plaintiffs
Vs.
Niranjan J. Shah & Ors. .. Defendants

Mr.Omkar Mohan Kulkarni for plaintiffs.

Ms.Priyanka Jangid i/b M.S. Dehlvi for defendant nos.2 and 3.

**CORAM : K.R.SHRIRAM, J.
DATE : 21ST JUNE, 2016**

P.C.

CHAMBER SUMMONS NO. 262 OF 2015

1 This chamber summons is for leave to amend the plaint. The amendment being sought is to bring on record further particulars of payments made by the plaintiffs to the defendants. There is no amendment of any prayer clauses. The counsel appearing for the defendants opposes the amendment. The counsel states that these details were available with the plaintiffs and could have been mentioned in the plaint at the time of filing.

2 I have considered the amendment sought. First of all, trial is yet to begin, even the issues are not settled. The Courts have taken a generous view, to avoid multiplicity of proceedings, in granting amendment if the trial is yet to begin unless there is some malafide or the amendment sought is barred by limitation or the amendment sought is changing the cause of action.

3 I have considered the schedule and I don't see anything malafide. The cause of action is seeking title and possession of the suit flat based on payments made. The plaintiffs, by this amendment, are only giving particulars of some other payments which were also made. There is no additional prayer being sought to be inserted, so the question of limitation also does not arise. In the circumstances, the chamber summons requires to be allowed.

3 The chamber summons is allowed in terms of prayer clause (a) and is accordingly disposed.

4 The plaintiffs to pay a sum of Rs.10,000/- as costs to the defendant nos.2 and 3. This amount to be paid by way of cheque drawn in favour of the advocate on record for defendant nos.2 and 3, who are the only

defendants, who have filed the reply to the chamber summons and appeared in Court too, within two weeks from today.

The amendment to be carried out and the amended the plaint to be served within two weeks.

5 Should the defendant nos.2 and 3 wish to file an additional written statement, the same to be filed and serve a copy within two weeks of receiving the amended plaint. The defendant nos.1 and 4 also to file their written statement within two weeks of receiving the amended plaint.

6 List the notices of motion for hearing on 7th July 2016.

(K.R. SHRIRAM, J.)