

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

**CHAMBER SUMMONS NO.392 OF 2016
IN
SUMMARY SUIT NO.1273 OF 2009**

Reliance Life Insurance Co. Ltd.Applicant/Plaintiff

V/s.

M/s. Dawnay Day AV Financial
Services Pvt. Ltd.Defendant

Mr. Gaurav Mehta a/w. Ms. Anisha Nair i/b. Indialaw for the plaintiff.
Mr. Shailesh Poria a/w. Ms. Vaishanvi Chillakuru i/b. Madhur R. Baya
for the defendant no.1.

Mr. Nikhil Sakhardande a/w. Mr. Rohan Rajdhyaksha and Mr. Malhar
Zatakia i/b. AZB and Partners for the proposed defendant no.2.

**CORAM : K.R.SHRIRAM,J
DATE : 1st OCTOBER,2016**

P.C.:-

1 The prayer sought in this chamber summons could be split into two parts, (i) to change the name of the defendant in view of change of name and address and (b) to add respondent as defendant no.2 and to amend the plaint accordingly as per schedule annexed to the plaint.

2 As regards the first part, i.e., to change the name and address of the defendant, the counsel appearing for the defendants have no objection.

3 Therefore, leave to amend the cause title to change the address and name of the defendant from “*M/s. Dawnay Day AV Financial Services Pvt. Ltd.*” to “*Destimony India Services Private Limited*” is granted.

4 As regards the second part, i.e., to add the respondent as defendant no.2, when one considers the claim in the suit, the entire transaction relates to the period 2006 to 2009. The cause of action also, as could be seen from the plaint, arose some time in 2008 or 2009. This chamber summons has been taken out in February, 2016. There is nothing in the affidavit in support also to show as to how the limitation gets saved. Curiously, a bald statement has been made in the affidavit in support that the respondent was not added due to mistake made in good faith. Vague averments cannot be accepted as a valid explanation. In my view, the claim as against respondent is grossly time barred.

 Therefore, second part of the chamber summons cannot be granted.

5 The chamber summons accordingly stands disposed.

6 The amendment to the name of the defendant as mentioned above, to be carried out within one week from today.

(K.R.SHRIRAM,J)