

JSN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 396 OF 2014
AND
NOTICE OF MOTION NO.1642 OF 2011
IN
SUIT NO. 1165 OF 2011

Inder Kishandas Ahuja and others ...Plaintiffs
Versus
Gopaldas Kishandas Ahuja and others ...Defendants

Rajmani Varma, Ms. Namrata Barot, i/b Shreeram Shirsat for the Plaintiffs.
Mrs. Anita Castelino, i/b Lambay and Company for the Defendant No.1.
Mr. Piyush Raheja, with Mr. Ganesh Ambekar, i/b Thakore Jarimwala and Associates for Defendant No.2.

CORAM: G.S. PATEL, J
DATED: 21st September 2016

PC:-

1. This is a Suit for administration. I have before me the Plaintiffs' Chamber Summons for amendment of the Plaint. The proposed amendment is moved before trial has commenced. The proposed amendment is in several parts. It seeks in Parts I to IV of the Schedule to the Chamber Summons to correct typographical errors. Part V of the schedule to the Chamber Summons seeks

consequential amendments to the Plaint. It deals with the additional properties as well. The Chamber Summons also seeks to add the two Respondents as proposed Defendants Nos. 9 and 10 to the Suit. Defendants Nos. 9 and 10 are the wives of Defendants Nos. 1 and 2, respectively.

2. As to the opposition to this Chamber Summons, the ground that it is barred by the limitation is without merit. The Suit is for administration. Further, the Respondents are necessary parties. As to the question of the parties' respective interests in the properties, I will leave all contentions open. The Defendants will be at liberty to urge in the Written Statement or at any other interim stage that any particular property sought to be included in this Suit is in fact not liable to be subjected to administration.

3. Leaving these contentions open, the Chamber Summons is made absolute in terms of prayer clauses (a), (b) and (c), except that the Plaintiffs will not amend the Affidavit in Support of the Notice of Motion No.1642 of 2011. They will instead file a further Affidavit in Support of the Notice of Motion. All the present Defendants will be entitled to file an additional Affidavit in Reply. The newly added Defendants will be entitled for Affidavit in Reply to the previous Affidavit in Support as also the further Affidavit in Support.

4. All amendments to be carried out on or before 21st October 2016. Copies of the amended Plaint will be served one week thereafter.

5. The further Affidavit in Reply to be filed on or before that 27th October 2016. All Affidavits in Rejoinder to the Notice of Motion to be filed and served on or before 21st November 2016. Notice of Motion No.1642 of 2011 to be listed on 29th November 2016 for hearing and final disposal.

6. Defendant No.5 has passed away. A draft amendment is tendered. The draft amendment marked “X” only seeks deletion of the name of Defendant No.5. This is unacceptable. The legal heirs of Defendant No. 5 must be joined as party defendants to the suit. The draft amendment is taken on record and marked “X” for identification. It is allowed but in addition, the heirs of the Defendant No.5 are also to be brought on record. This amendment is also to be effected on or before 21st October 2016.

(G. S. PATEL, J.)