

JSN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS (L) NO.864 OF 2016
IN
SUIT NO.295 OF 2012

Kaizer Taher Mithaiwala	...Plaintiff
<i>Versus</i>	
Shamima Taher Mithaiwala and others	...Defendants

Mr. Ankit Lohia, *with Mr. Rohan Kadam, i/b Mr. Mohanish Chaudhari, for the Plaintiff.*

Mr. Vishal Kanade, *i/b Sunila C. Chavan for Defendant No.1 and Applicant in NMS No.1537 of 2014.*

Mr. J.S. Kini, *i/b Prem Gidwani for Defendants Nos.1, 2, 3 and 5.*

CORAM: G.S. PATEL, J
DATED: 14th September 2016

PC:-

1. Despite a most spirited opposition from Mr. Kini, this Chamber Summons by the Plaintiff will have to be allowed. The amendments that the Plaintiff seeks are clarificatory. The Suit itself is for partition of the assets in the estate of the deceased, Taher Mithaiwala. The Plaint mentions certain assets in Exhibits B to F. Evidently, however, the reliefs sought must extend to all the assets in that estate.

2. The Chamber Summons is made absolute in terms of prayer clauses (a) and (b). The amendment is to be carried out on or before 30th September 2016. Copies of the amended Plaint to be served on the Advocates for the Defendants.

3. It is clarified that the interim injunction that the Plaintiff obtained in respect of the properties mentioned in the unamended Plaint will not, by virtue of this amendment, extend to any additional or further properties in that estate. Should the Plaintiff seek injunction in respect of any such additional properties he will have to file an appropriate application in that behalf. Any such application will be decided on its own merits. All contentions are expressly kept open.

4. The Defendants are at liberty to file additional Written Statement dealing with the amendments, if necessary. Those Written Statements must be filed and served on or before 27th October 2016. If not, the Defendants will be deemed to have given up the right to file additional Written Statements.

5. The Chamber Summons is disposed of in these terms.

6. The Suit be listed for directions on 18th November 2016. At that time, any additional issues may be framed should they arise on any additional Written Statement that may have been filed.

(G. S. PATEL, J.)