

SHEPHALI

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 143 OF 2016
IN
SUIT NO. 695 OF 2013**

Maila Maria Fernandez & Another ...Plaintiffs
Versus
Cynthia Aranha & 5 Others ...Defendants

Mr. Rakesh D. Kumar, *with Mr. Shivkumar Mishra, i/b M/s. Legal Vision, for the Plaintiffs/Applicants.*
Mr. Nitin G. Raut, *for Defendants Nos. 1 to 3.*

CORAM: G.S. PATEL, J
DATED: 23rd September 2016

PC:-

1. This is the Plaintiffs' Chamber Summons for amendment. The amendments are substantial. I believe they are necessary. I have heard Mr. Rakesh Kumar for the Plaintiffs and Mr. Raut for Defendants Nos. 1 to 3.

2. Mr. Kumar says that it is on the basis of certain disclosures made by the parties in their Written Statements that the Plaintiffs felt it necessary to file the present Chamber Summons. The proposed amendments to the Plaint *inter alia* challenge a Will, and Deed of Ratification-cum-Ratification, both of which Mr. Kumar

says were not to his clients' knowledge at the time when the Suit was instituted.

3. I will allow the Chamber Summons in terms of prayer clause (a). However, all contentions of the Defendants, including specifically as to limitation and maintainability of the Suit are expressly kept open.

4. Amendment to be carried out on or before 14th October 2016. A copy of the amended Plaint will be served on the Advocates for all the Defendants on or before 21st October 2016. The Defendants who have already filed their Written Statements shall be entitled to file Additional or Supplementary Written Statements on or before 2nd December 2016. The Defendants who have not yet filed their Written Statements shall file a consolidated Written Statement in response to the Plaint and its amendment on or before 2nd December 2016.

5. List the Suit on 16th December 2016 for framing issues. It is clarified that the amendment permitted will not relate back to the date of commencement of the Suit; that would be incongruous, for the specific case of the Plaintiffs is that they did not know of these facts when the suit was instituted.

(G. S. PATEL, J.)