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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 1422 OF 2012
AND
CHAMBER SUMMONS NO. 1522 OF 2016
IN
SUIT NO. 1965 OF 2010**

Jasmine S. Shah ...Plaintiff
Versus
Mallika M. Jhaveri & Ors ...Defendants

**WITH
TESTAMENTARY & INTESTATE JURISDICTION
TESTAMENTARY SUIT NO. 12 OF 2013
IN
TESTAMENTARY PETITION NO. 561 OF 2010**

Mallika Madhukant Jhaveri ...Plaintiff
Versus
Jasmin Sanjay Shah ...Defendant

Ms. Manjiri Shah, *with Ms. Namrata Shah, i/b M/s. K. Ashar & Co.,
for the Plaintiff in S/1965/2010, & Applicant in CHS/1522/
2016 & CHS/1422/2012.*

Mr. R.A. Shaikh, *for Defendant No. 1 in S/1965/2010 & for the
Plaintiff in TS/12/2013.*

Mr. Ravi Goenka, *i/b Goenka Law Asso., for Defendant No. 8 in
S/1965/2010.*

CORAM: G.S. PATEL, J
DATED: 19th December 2016

PC:-

CHAMBER SUMMONS NO. 1422 OF 2012

1. This is Plaintiff's Chamber Summons for amendment in an administration suit. On the previous occasion, I permitted Ms. Shah appearing for the Plaintiff leave to effect certain changes to the schedule. She has tendered today a revised schedule of amendment. It is taken on record and marked "X" for identification.
2. There are no Written Statements filed as yet. The Chamber Summons seeks to bring on record certain subsequent events and to assert various legal claims based on these subsequent events.
3. Chamber Summons No. 1422 of 2012 is made absolute in terms of the draft. Amendments to be carried out on or before 13th January 2017.

CHAMBER SUMMONS NO. 1522 OF 2016

4. This is the Plaintiff's second Chamber Summons to amend the plaint. The Plaintiff seeks to add State Bank of India, PM Road Branch as Defendant No. 8 and to make certain consequential changes and averments in the body of the plaint. This is because the suit extends to an immovable property and, through a series of

intermediate transactions, the State Bank of India now claims to be a mortgagee of that property, entitled to recover its dues against it. Ms. Shah's case is that preceding alienations, transfers or dispositions of that property are all illicit and unlawful and the mortgagor could never have acquired sufficient title to create any security over that property. Given that this is an administration suit, evidently the Chamber Summons will have to be allowed.

5. The Chamber Summons is made absolute in terms of prayer clauses (a) and (b). Amendment to be carried out on or before 13th January 2017.

6. At this stage, it is pointed out that Defendant No. 7, Nova Oleochem Ltd, is in liquidation pursuant to an order dated 21st September 2016. The Official Liquidator has been appointed. Consequently, as part of this series of amendments, the Plaintiff will also be at liberty to make the necessary application for joining the Official Liquidator in place and stead of Defendant No. 7, following which a further formal amendment will be necessary. I take today the liberty of allowing that amendment to join the Official Liquidator subject to leave being obtained and without requiring the Plaintiff in the administration suit to file a fresh Chamber Summons only for that purpose, since that is a mere formality.

7. Copies of the amended plaint (preferably retyped for clarity) will be served on the Advocates for the Defendants, including the newly added Defendant No. 8. A spare copy should be kept ready for the use of Court on the next occasion.

8. At present since there is a probate petition pending, no further directions are being issued in the administration Suit.

TESTAMENTARY SUIT NO. 12 OF 2013

9. Mr. Shaikh for the probate petitioners seeks leave to issue witness summons to the attesting witnesses, *viz.*, (i) Ms. Deepa H. Bangera (Alias Deepa S. Kunder); and (ii) Lolakhshi S. Kunder, both residing at 304, Dipex Building, “B” Wing, Namdev Path Road, Dombivli (East), District Thane, returnable on 18th January 2017 at 3.00 p.m. in Court.

10. The Probate Petitioner (the 1st Defendant to the administration suit) is personally present in Court when this order is passed.

(G. S. PATEL, J.)