

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 103 OF 2017
IN
SUIT NO. 1537 OF 2012

ABN Amro Bank Mumbai through Kukkundoor Achuta Nayak Anr	...Plaintiffs
<i>Versus</i>	
The Royal Bank of Scotland NV	...Defendants
<i>And</i>	
Sandeep Sareen & Ors	...Applicants

Mr Gautam Mehta, i/b Ms Bhakti Popat, for the Applicants.
Mr Rohaan Cama, i/b M/s Sanjay Udeshi & Co, for Plaintiffs.
Mr Snehal Shah, Senior Advocate, with Mr M Behl and V
Talsania, i/b Kanga & Co for the Defendants.

CORAM: G.S. PATEL, J
DATED: 17th April 2017

PC:-

1. Heard.

2. Seventeen Applicants wish to be joined as party Plaintiffs. They say they are erstwhile employees of ABN Amro Bank at either its Mumbai or Calcutta branches. All of them are pensioners. The two Plaintiffs are ABN Amro Bank Mumbai Pensioners' Association and ABN Amro Bank Calcutta Pensioners' Association. The suit

itself seeks money claim against the sole Defendant, the Royal Bank of Scotland NV (previously ABN Amro Bank NV) and directions that these amounts be deposited with Pension Trusts.

3. Of the Applicants, Applicants Nos. 1, 7, 14, 15 and 16 are members of the 1st Plaintiff. The other Applicants are not members. As far as the other Applicants are concerned, Mr Mehta for the Applicants is unable to state categorically whether they are or are not members of the Plaintiff Associations.

4. There is in support of the Chamber Summons an Affidavit of Applicant No. 7 one Mr V Ganesan. He states that while the Defendant is winding down its business in India or shutting down operations, it is in the process of addressing claims by the Plaintiffs for pension benefits for previous employees. The Affidavit indicates in paragraphs 24 to 26 that there are some disagreements, or at any rate, some controversy between the Applicants and the Plaintiff Associations including as to whether the Applicants' names are to be properly included in the list of members or in the list of those entitled to pension benefits. In paragraph 29, the Applicants claim that they have a direct legal interest in the subject matter of the suit and they are similarly placed with other Plaintiffs.

5. The application is opposed not only by the Defendant, which is understandable but also by the Plaintiffs represented by Mr Cama. He submits and I think quite rightly that the two Plaintiffs are *dominus litus* and it is for them to decide who should or should not be fellow Plaintiffs. Mr Mehta may be correct in saying that in a

given case I could exercise my discretion under Order I Rule 10 Sub-Rule 2 and implead another party as a co-plaintiff, but it does not follow that must be done in every case or even that it would be appropriate to do so in this case. If the Applicants' interests are common with those of the other pensioners represented by the two Plaintiffs then every such person need not be separately represented. If those two interests do not coincide or if there is an internal dispute between them then there is no question of joining the Applicants as fellow plaintiffs and it must be left open to them to pursue their remedies in their own civil proceedings, and to which they may join either the present Defendant and the two Plaintiffs, or all of them.

6. I do not see how this Chamber Summons can be allowed. It is dismissed. However, it is clarified that all rights and contentions of all parties are left open and the Applicants will be at liberty to adopt such civil proceedings as they may be advised against the present Defendant, the present Plaintiffs or all three.

7. There will be no order as to costs.

(G. S. PATEL, J.)