

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER ORDER NO. 336 OF 2017
IN
SUIT NO. 5757 OF 1998**

Hemlata Keshavji Gala & Anr	...Plaintiffs
<i>Versus</i>	
Chunnilal Punshi Satra & Ors	...Defendants

**Mr Bhavin Gada, a/w Vaishali Sharm & Payal Khona, i/b
Harakchand & Co, for the Plaintiffs.
Mr Chetan R Shahi, i/b Rakesh Agarwal, for the Defendants.**

**CORAM: G.S. PATEL, J
DATED: 13th December 2017**

PC:-

1. The chamber order is filed by the surviving Plaintiff No.1(b), who seeks to amend the suit to delete the name of his mother, Plaintiff No.1(a). She died on 12th January 2017. Plaintiff No.1(b) is one of her three surviving heirs and legal representatives. The other two are Plaintiff No.1(a)'s married daughters Vijaya K Cheeda and Neeta Rajiv Gangar. The Plaintiff No.1(b) says that his deceased mother had only a one-fourth undivided share, right, title and interest in the suit property and that by a deed of release dated 10th June 2016 she relinquished

this in his favour. It is for this reason that he does not wish to join his married sisters.

2. On behalf of Defendants it is pointed out that the married sisters being the heirs and legal representatives of the deceased Plaintiff No.1(a), they should be joined either as party plaintiffs or as party defendants but cannot be left out of the proceedings altogether. However if the Plaintiff No.1(b) wishes to proceed on this footing, now as the sole Plaintiff, he will do so at his risk. He is *dominus litus*, and it is for him to decide who he should or should not join in what capacity. It is made clear that he will not hereafter be permitted to add either of the married sisters as parties to the proceedings. The Defendants are at liberty to take this as a defence, viz., that the suit is defective and not maintainable for want of joinder of the two married sisters. Contentions on both sides in this regard are left open.

3. The Chamber order is made absolute in these terms. There will be no order as to costs.

4. Amendment to be carried out within two weeks from today without need of reverification.

(G. S. PATEL, J.)