

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**CHAMBER SUMMONS NO. 350 OF 2017
IN
SUIT NO. 131 OF 2014**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Prothonotary's orders	Court's or Judge's orders
--	---------------------------

Mr. Rajneesh Agarwal i/by. Mr. Meghnath Navlani for Applicant/Plaintiff.

Mr. Simil Purohit a/w Rajenda Jain i/by. Thakore Jariwala & Associates for Defendant Nos. 1 and 2.

Mr. Jayant Gaikwad i/by. Ajay Khandhar & Co. for Defendant No.3.

CORAM : K. K. TATED, J.

DATE : NOVEMBER 7, 2017

P.C.:

1. Heard learned counsel for parties.

2. Plaintiff has preferred the present Chamber Summons for carrying out amendment in Suit No. 131 of 2014 in view of the subsequent development after the order passed by the Supreme Court on 5th September, 2014 in Civil appeal No. 8539 of 2014.

3. The learned Counsel Mr. Agarwal appearing on behalf of Applicant/Plaintiff submits that pursuant to the order passed by the Supreme

Court on 5th September, 2014 Supreme Court permitted the Defendant Nos. 3, 4 & 5 to sell the shares. He submits that pursuant to the said transaction, some excess amount is lying with Defendant Nos.1 and 2 on their account. He further submits that in view of subsequent development, they do not want to press the present Suit against the Defendant Nos. 3, 4 and 5.

4. On the other hand, learned Counsel Mr. Purohit appearing on behalf of Defendant Nos.1 and 2 vehemently opposed the present Chamber Summons. He submits that there is no question of allowing the Plaintiff to amend the plaint in view of subsequent development and passing of order dated 5th September, 2014 by the Supreme Court. He submits that these facts are a matter of evidence and Plaintiff is required to prove it on its own merits. Hence, this Chamber Summons is required to be dismissed with costs.

5. I have heard both the sides at length.

6. At this stage, in view of subsequent development i.e. passing of order dated 5th September, 2014 by the Supreme Court and disposal of some of the shares by the Defendant Nos. 3, 4 and 5, it is the case of the Plaintiff that some excess amount is still lying with Defendant Nos.1 and 2 or in their account. They are required to bring all these facts on record. Hence, they

preferred the present Chamber Summons for bringing these facts on record.

7. Considering the submission made by the learned Counsel of both the parties and the contents of Affidavit in support of Chamber Summons, I am satisfied that Applicant has made out a case for allowing the Chamber Summons. Hence, the following order.

ORDER

(A) Chamber Summons is allowed.

(B) Applicant to carry out amendment in Suit No. 131 of 2014 as per Schedule on page 9 onwards annexed with Affidavit in support of the Chamber Summons.

(C) Amendment to be carried out within four weeks from today, failing which, Chamber Summons shall stand dismissed without reference back to the Court.

(D) If amendment is carried out within stipulated time as stated herein above, Applicant/Plaintiff to serve the Defendants with amended copy of plaint.

(E) If amended copy of plaint is served on Defendants or their Advocate, liberty is granted to Defendants to file their additional written statement, if any, to the amended copy of plaint within six weeks from the receipt of amended copy of plaint.

(F) Chamber Summons stands disposed of accordingly.

(G) No order as to costs.

(K.K.TATED, J.)