

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

**CHAMBER SUMMONS NO.550 OF 2016
IN
SUIT NO.2580 OF 2012**

Virstine Yazdanparast

....Plaintiff/applicant

V/s.

Perin F.Pavri & Ors.

....Defendants

Mr.Zal Andhyarujina a/w Mr.Neerav Merchant and Ms.Neha Kodape
i/by Tyabji Dayabhai for the plaintiff/applicant.

Mr.Bomi Patel i/by Rnnie H.Mirza for the defendant no.2.

Mr.Gauraj Shah i/by Dhanuka & Partners for defendant no.3.

CORAM : K.R.SHRIRAM,J

DATE : 19.1.2017

P.C.:-

1 This chamber summons is taken out by the plaintiff for leave to amend the plaint and the affidavit in support of the Notice of Motion.

2 The issues are yet to be settled. Mr.Patel for the defendant no.2 and Mr.Shah for the defendant no.3 state that if the court is inclined to allow the amendment, then the court would kindly keep open all their rights and contentions to be raised in their additional written statement. This relates to schedule-A to the chamber summons.

3 So far as schedule-B to the chamber summons, Mr.Patel submits and rightly so that affidavit in support of the Notice of Motion cannot be amended in the way the plaintiff seeks to amend. Mr.Patel submits that if the plaint is amended, it is open for the plaintiff to file further affidavit should they wish but court should not permit amending the affidavit and they cannot ask for amending the affidavit in support of the Notice of Motion. I agree with Mr.Patel.

4 Therefore, keeping open all rights and contentions of all parties to be raised in the additional written statement to be filed, chamber summons allowed in terms of prayer clause-(a). The plaintiff is also at liberty to file additional affidavit in support of the Notice of Motion No.26 of 2015.

5 Amendment to be carried out and amended plaint and further affidavit to be served in 3 weeks from today. Should the defendants wish to file additional written statement and reply to the additional affidavit in support, they may do so within three weeks of receiving the amended plaint and the further affidavit in support.

Chamber summons accordingly disposed.

(K.R.SHRIRAM,J)