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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.242 OF 2017

IN

CHAMBER SUMMONS NO.859 OF 2012

IN

SUIT NO.1295 OF 2007

Stella Anthony Machado (deceased)

through LRs. & Ors.

..Appellants.

V/s.

Wadia Charity Trust & Ors.

..Respondents.

AND

Golden Property Pvt. Ltd. & Ors.

..Respondents.

Mr.A.V.Anturkar, Senior Advocate i/b. Mr.S.B.Deshmukh for the
Applicants / Appellants.

Mr.Harshil Panchal i/b. Flavia Legal for Respondent Nos.2 to 7, 10, 12,
13 & 14.

Mr.Ashish Kamat with Ms.Pooja Kothari i/b. M/s. Federal & Rashmikan
for Respondent Nos.16, 18 & 19.

Mr.Manish Acharya with Ms.Karishma Agarwal i/b. Vigil Juris for
Respondent Nos.1, 1(A) to 1(D).

Ms.Deepali Patankar, AGP for Respondent No.15-State.

Ms.Archana Karmokar with Ms.Shraddha Ambre i/b. Divya Shah
Associate for Respondent No.11.

***CORAM: R.M. SAVANT AND
SARANG V. KOTWAL, JJ.***

DATE : NOVEMBER 27, 2017

PC.:-

The above Appeal takes exception to the order dated February 17, 2015 passed by the learned Single Judge of this Court (K.R.Shriram, J.) as the Chamber Summons filed by the Appellants for amendment of the plaint in terms of the schedule came to be rejected. By the said amendment, the Appellants / original Plaintiffs sought to challenge the Development Agreement dated January, 22, 2007 between the Defendants *inter se*, the factum of the Development Agreement was placed on record by way of an affidavit filed in a Notice of Motion in a Writ Petition filed challenging the orders passed under the Maharashtra Public Trust Act. The said fact was, therefore, brought to the notice of the Plaintiffs on April 24, 2008. The Plaintiffs sought to amend the suit so as to raise a challenge to the Development Agreement on July 2, 2012 as the Chamber Summons in question was lodged on the said date. The learned Single Judge, having regard to the said undisputed facts came to a conclusion that the said amendment would introduce a relief which was barred by limitation. Having regard to the aforesaid facts no exception could be taken to the order passed by the learned Single Judge dismissing the Chamber Summons. The Appeal is accordingly dismissed.

(SARANG V. KOTWAL, J.)

(R.M.SAVANT, J.)