

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

**CHAMBER SUMMONS NO.602 OF 2016
IN
SUIT NO.1551 OF 2010**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Prothonotary's orders	Court's or Judge's orders
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Mr.Simil Puroit a/w Ms.Nupur J. Mukherjee i/b Mr.Narendra Devashree for the plaintiffs

Mr.Roshan S. Tanna i/b Mr.Akshay Patkar for the defendant nos.5 and 6

Mr.Onkar Chandurkar i/b Mr.Karim Vakil for the defendant nos.2 to 4, 9, 10, 11 and 13

**CORAM : K. K. TATED, J.
DATE : NOVEMBER 21, 2017**

P.C.:

1. Heard the learned counsel for the parties.
2. By this Chamber Summons, plaintiff is seeking to carry out amendment in the plaint for claiming damages from the defendants.
3. The learned Counsel for the applicant submits that they preferred the present Suit for specific performance of M.O.U. dated 12.2.2010 and M.O.U. dated 14.2.2010. He submits that at that time, it remained on the part of applicant to

make prayers for damages. Hence, they preferred the present Chamber Summons.

4. The learned Counsel for the defendant submits that there is no question of allowing the Chamber Summons because by this Chamber Summons, plaintiff is seeking damages against the defendants by carrying out appropriate amendment in the plaint. He submits that Suit was filed in the year 2010 and present Chamber Summons is preferred in 2016 i.e. on 23.3.2016. He submits that proposed claim made by the plaintiff against the defendant itself is barred by limitation. Hence, Chamber Summons is required to be dismissed with costs.

5. I have heard both the sides at length. It is to be noted that Suit filed by the plaintiff was for specific performance of M.O.U. and at that time, it remained on their part to make prayers for claiming damages.

6. Considering the submissions made by the learned Counsel for the defendant, I am of the opinion that Chamber Summons can be allowed in terms of prayer clause (a) subject to limitation point keeping open to consider at the time of final hearing. Hence, following order is passed:

A) Chamber Summons is allowed in terms of prayer clause (a) which reads thus:

“(a) Plaintiffs be permitted to amend the suit as per the schedule annexed hereto.”

B) Limitation issue raised by the defendants is kept open and that be decided at the time of final hearing of the Suit.

C) Applicant to carry out amendment in the plaint within four weeks from today, failing which Chamber Summons shall stand dismissed without referring back to the court.

D) If amendment is carried out within stipulated time as stated hereinabove, applicant plaintiff to serve copy of amended plaint on defendant thereafter within six weeks.

E) Liberty granted to the defendant if they so desire, to file their additional written statement within 8 weeks from the date of receipt of amended copy of plaint.

F) Chamber Summons stands disposed of accordingly.

(K.K.TATED, J.)