

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

**CHAMBER SUMMONS NO.577 OF 2015
IN
SUIT NO.3487 OF 2006**

Clera Simon Mendonza & Ors.)....Plaintiffs/Applicants

V/s.

Parivar Co-operative Housing Society Ltd.)....Defendant

And

Aadi Properties LLP & Ors.)....Respondents

Mr.Mohan Salion i/by MSG Legal for plaintiffs.

Mr.Mustafa Doctor, senior Advocate a/w Mr.Sairam Subramanian
i/by Khaitan & Co. for defendant nos.1 & 2.

**CORAM : K.R.SHRIRAM,J
DATE : 25.7.2017**

P.C.:-

1 This Chamber summons is taken out to add the respondents as defendants to the suit. The plaintiffs had moved this Court for ad-interim relief on 5.5.2015. The Court while refusing ad-interim relief, had made the following observations in paragraph nos.4, 5 & 6 which read as under :-

"4. The foundation of the case against such third party who is that the respondent to the chamber summons issued a public notice dated 13th February, 2015. The public notice shows only the fact that the respondent would develop the property and sell the units to be constructed on ownership basis on the suit plot of land ;

5. The amendment sought shows that the respondent entered into a development agreement on 16th April, 2003 followed by a

registered conveyance on 4th May, 2005. The plaintiffs would be imputed notice of the conveyance upon its registration on 11th May, 2005. The plaintiffs never sued the respondents since 2005. The respondents are stated to be developing a specific plot of the suit land ;

6. A reading of the public notice does not show that the knowledge of the plaintiff emanated from the public notice. In fact the knowledge of the development agreement emanated from the written statement of defendant No.1 filed in 2009. Nothing has been done until 2015. Consequently reliance upon the public notice is misconceived. It is an attempt to show the bar of limitation being saved."

2 Though it is an order passed at ad-interim stage, the Court has concluded that the plaintiffs should have got notice of the conveyance upon its registration on 11.5.2005 and in any event from the written statement of defendant no.1 filed in 2009. The Chamber summons has been lodged on 17.4.2015. While considering the application to add a party as defendant, the main point which the Court will consider is if the plaintiff had filed an independent suit, would it be within limitation ? If not, certainly the amendment also cannot be allowed to introduce a party as defendant.

3 In the circumstances, ex-facie it appears to be barred by limitation. Chamber summons therefore, dismissed.

(K.R.SHRIRAM,J)