

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

**CHAMBER SUMMONS NO.893 OF 2015
IN
COMMERCIAL SUIT NO.181 OF 2015**

M/s. Shree Sai Rent A-Car Pvt. Ltd.Applicant/Plaintiff

Vs.

M/s. Sea Bird Tourist CentreDefendant

Mr. Vishal Kanade a/w. Ms. Kirtida Chandarana i/b. Mahernosh J. Humranwala for applicant/plaintiff.

Mr. Rajesh J. Ghag for defendant.

CORAM : K.R. SHRIRAM, J.

DATE : 23rd AUGUST, 2017

PC.:

1 This chamber summons is for leave to amend the plaint. The proposed amendment, Mr. Kanade states, should be as per the Schedule annexed to the rejoinder affidavit of one Hemang Vasu affirmed on 23rd August, 2017, page 72 onwards.

2 Mr. Ghag, counsel for defendant opposes the chamber summons and submits that though the chamber summons is only to reduce the claim amount of Rs.1,15,71,369/- to Rs.1,12,97,587/-, it is obvious from the affidavit in support that plaintiff was aware of all these calculations and they should have factored it in the plaint and not come by way of this amendment.

3 The suit filed is for summary decree. The summons for judgment is yet to be disposed. In my view, allowing the chamber summons

will not cause any prejudice to defendant since all the defences could be raised by defendant while opposing the summons for judgment and applying for leave to defend.

4 In the circumstances, keeping open the rights and contentions of defendant, the chamber summons is allowed and accordingly disposed in terms of prayer clause - (a).

5 Amendment as per the Schedule annexed to the rejoinder affidavit to be carried out and copy of the amended plaint to be served within two weeks from today.

6 Within one week of amending the plaint, plaintiff to also file, should they feel necessary, further affidavit in support of the summons for judgment and serve a copy thereof upon defendant. Further affidavit in reply to be filed and copy served within one week of receiving copy of the further affidavit in support of the summons for judgment.

(K.R. SHRIRAM, J.)