

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

**CHAMBER SUMMONS NO.1213 OF 2016
IN
SUIT NO.874 OF 2013**

Ashadeep Co-operative Housing Society Ltd. .. Applicant

In the matter between

Ashadeep Co-operative Housing Society Ltd. .. Plaintiff

Vs.

M/s.Paresh Associates & Ors. .. Defendants

Mr.Vinod L.Desai for the applicant/plaintiff.

Mr.M.P.Vora i/by M/s. Pramodkumar & Co. for the defendant no.2.

Mr.Ganesh Ambekar i/by M/s.Thakore Jariwala for the defendant no.3.

Mr.U.S. Upadhyay, AGP for the respondent no.4-State.

CORAM : R.D. DHANUKA, J.

DATE : 7th December 2017

P.C.:

. By this chamber summons, the applicant (original plaintiff) seeks amendment to the plaint annexed at pages 9 to 21 to the affidavit-in-support of the chamber summons and also seeks an order for placing suit on board for speaking to the minutes of the order dated 2nd November 2015 passed by the competent authority under the provision of MOFA, for passing appropriate order on the application dated 11th December 2015 filed by the plaintiff for rectification in accordance with law.

2. I have heard learned counsel appearing for the parties and I have perused the averments made in the affidavit-in-support of the chamber summons.

3. It is the case of the plaintiff that after filing of the suit, subsequent events have transpired which are sought to be placed on record by the plaintiff.

4. A perusal of the affidavit-in-support of the chamber summons indicates that the plaintiff also seeks to challenge part of the order dated 2nd November 2015 passed by the competent authority.

5. In so far as the prayer clause (a) is concerned, I am inclined to consider the application of the applicant in the chamber summons so as to bring these subsequent facts on record. Amendment as per paragraphs 18A to 18H is accordingly allowed.

6. In so far as the prayer clause (a) is concerned, in my view, the plaintiff cannot challenge the said order dated 2nd November 2015 passed by the competent authority under the provisions of MOFA in this suit. If such prayer is allowed, it will expand the scope of the original relief in the suit. I am thus not inclined to implead the State of Maharashtra as party to the suit as prayed. I am also not inclined to allow the amendment sought in paragraphs 18-I to 18-K and also the paragraphs G, H and I for the amendment to the plaint and is accordingly rejected.

7. Chamber summons is partly made absolute in aforesaid terms. Amendment to be carried out in the aforesaid terms within two weeks from today. Amended copy of the plaint shall be served upon all the defendants within two weeks from the date of carrying out amendment. Part of prayer clauses (a) and (b) is rejected. No order as to

costs. It is also made clear that merely because the amendment is permitted in aforesaid term, the defendants do not accept the correctness of the averments made in the amendment and contentions raised therein.

8. The defendants are permitted to file additional written statement within four weeks from the date of effecting the service of the amended copy of the plaint.

R.D. DHANUKA, J.