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

CHAMBER SUMMONS NO. 121 OF 2017
IN
COMMERCIAL SUIT NO. 134 OF 2015

Bindiya Chawla & 2 ors.

...Applicants/Plaintiffs

VS

Ajay Chawla

...Defendant

.....

Mr Deepika Kacker i/b Sachin Daga for the Applicants/Plaintiffs
Mr Gaurav Mehta a/w Darshan R. Mehta i/b Dhruve Liladhar &
Co. for the Defendant.

.....

CORAM : **B.P.COLABAWALLA, J.**
DECEMBER 07, 2017.

P.C.:

This Chamber Summons is being filed by the Applicants/ Plaintiffs seeking certain amendments to the plaint as more particularly set out in Schedule-A which is annexed to the Chamber Summons.

2 Originally, this suit was filed as a Summary Suit for enforcement of a foreign decree passed by a Superior Court of the State of California of United States of America. In this suit, the Defendant was granted unconditional leave to defend the suit. What is now sought to be brought on record is that the

decree that has been passed by the Superior Court of California, USA, has been enhanced in view of the fact that the decree passed by that Court has not been complied with by the Defendant. There are also other contentions that are sought to be brought on record with reference to the proceedings that were filed in the said Court. The Defendant has filed an affidavit-in-rely opposing the Chamber Summons dated 10th August, 2017. In this reply the Defendant has stated that the amendments ought not to be allowed as the claim in the amendment is hopelessly barred by the Law of Limitation and that allowing the amendment would change the cause of action in the suit. Some other issues also have been raised in the affidavit-in-reply as far as the merits are concerned.

3 After hearing the learned advocate for the parties and perusing the papers and the proceedings, I think that it would be in the fitness of things if the Chamber Summons is allowed and the Plaintiffs are permitted to carry out the amendment more particularly set out in Schedule-A annexed to the Chamber Summons. I do not think that the amendment changes either the nature of the suit or the cause of action pleaded in the plaint. As

far as the merits of the amendment are concerned, that is not something that this Court would go into at this stage whilst granting the amendment. Once the amendment is granted the Defendant will be at liberty to take up all contentions with reference to the merits of the amendment. Even as far as the issue of limitation is concerned, I make it clear that the same is expressly kept open for the Defendant to canvass and raise in the Written Statement that he may choose to file opposing the claim of the Plaintiffs.

4 Under these circumstances, the Chamber Summons is allowed in terms of prayer clause (a). The Plaintiffs shall carry out this amendment within a period of four weeks from today and serve a copy of the amended plaint on the advocates for the Defendant. The Defendant shall file his Written Statement within a period of eight weeks from the date on which the amended copy of the plaint is served upon him. The Chamber Summons is disposed of in the aforesaid terms. There shall be no order as to costs.

(B. P. COLABAWALLA, J.)