

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
CHAMBER SUMMONS NO.1721 OF 2016  
IN  
SUIT NO.210 OF 1996**

Anjali Atmaram Bhansali and Ors. ....Applicants/Plaintiffs

V/s.

Tinoo Mansen Bhansali and Ors. ....Defendants

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Mr. Sandeep Goyal i/b. M/s. Mulla and Mulla and CBC for the applicants/plaintiffs.

Ms. Geeta Shastri for the respondents.

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

**DATE : 12<sup>th</sup> JANUARY, 2017**

**P.C.:-**

1 This chamber summons is to bring on record the legal heirs of defendant no.1, who expired on 28<sup>th</sup> April, 2016 as defendant nos.1(a) to 1(c).

2 In the affidavit in support it is stated that the communication from the advocate for defendant no.1 was received on 30<sup>th</sup> June, 2016 in which details of the legal heirs were mentioned. The counsel for the applicants states that the chamber summons was lodged on 13<sup>th</sup> October, 2016 and there has been a delay of only about 70 days.

3 Ms. Shastry, counsel for the respondents strongly opposes the chamber summons and also relies on two judgments of the Apex Court in *Balwant Singh (dead) vs. Jagdish Singh and Ors.*<sup>1</sup> and *Katari Suryanarayana and Ors. vs. Koppiseti Subba Rao and Ors.*<sup>2</sup> Ms. Shastry states that the plaintiffs had even come for the condolence on 19<sup>th</sup> May, 2016 and therefore, it is not correct for the plaintiffs to say that there has been a delay of only about 70 days but the delay is much longer.

4 Though the plaintiffs have gone for condolence at the residence of the respondents/original defendant no.1, that would not mean that the plaintiffs should know who all would be the legal heirs who were required to be joined. It is also stated in the affidavit in support that even the address of the legal heirs was not known to the plaintiffs and the plaintiffs by their letter dated 18<sup>th</sup> July, 2016 had requested the advocate for the defendant no.1 to provide the address of the legal heirs. It is stated in the affidavit of support that these details were provided vide a letter dated 27<sup>th</sup> July, 2016. Mr. Goyal, counsel for the plaintiffs raises a grievance that copy of the death certificate was not provided.

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1. (2010) 8 SCC 685

2. (2009) 11 SCC 183

5           Even if we calculate 90 days from 27<sup>th</sup> July, 2016, the 90 days would have expired only on or about 26<sup>th</sup> October, 2016 whereas this chamber summons has been lodged on 13<sup>th</sup> October, 2016.

6           Therefore, the chamber summons is allowed and accordingly disposed in terms of prayer clauses – (a), (b) and (c). The amendment to be carried out and copy of the amended plaint to be served within two weeks from today.

7           Ms. Shastry, counsel for the defendant nos.1(a) to 1(c) waives service of the writ of summons.

            The defendant nos.1(a) to 1(c) to file their written statement and serve a copy thereof within four weeks from the service of the amended plaint.

8           The suit be listed for directions on 24<sup>th</sup> February, 2017.

**(K.R.SHRIRAM,J)**