

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****CHAMBER SUMMONS NO.919 OF 2018****IN****SUIT NO.930 OF 2015****WITH****SUIT NO.930 OF 2015****WITH****CHAMBER SUMMONS NO.645 OF 2018****IN****SUIT NO.930 OF 2015****WITH****NOTICE OF MOTION (L) NO.2198 OF 2018
(NOT ON BOARD)**

Sumanth Chander Bolar And Anr. ... Plaintiffs

Versus

Ramshiromani Ramsamujh Yadav & 14 Ors. ... Defendants

.....

Mr. Amogh Karandikar, for the Applicants in CHS/Plaintiffs.

Mr. Sanjay Jain, a/w. Mr. Nishant Sasidharan, Mr. Kalpesh Mehta and Ms. Mansi Shah, i/b. M/s. Pravin Mehta And Mithi & Co., for Defendant Nos. 13 to 15/Applicants in NMSL/2198/2018.

Mr. E.B. Sivakumar, Deputy Official Assignee in Insolvency Petition No.39 of 2001.

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CORAM : S.C.GUPTE, J.

DATED : 25 SEPTEMBER 2018

P.C.:

. Heard learned Counsel for the parties. This chamber summons seeks amendment of the plaint. After the matter is heard at some length, it is agreed between learned Counsel for the parties that the chamber

summons may be allowed, subject to keeping all rights and contentions of the parties, both on limitation as well as merits open. The chamber summons is, accordingly, made absolute in terms of prayer clauses (a) and (b). Amendment to be carried out within two weeks. The Defendants will be entitled to file additional written statement within a period of four weeks of service of the amended plaint. It is clarified that whether or not the amendment relates back to the date of the suit and whether the amended claim has merits and whether the amended claim is barred by the provisions of the Benami Transaction Prohibition Act, 1888 ("Benami Act"), are kept open, to be agitated at the trial of the suit.

2. The companion notice of motion is taken out by Defendant Nos. 13 to 15 for rejection of the plaint under Order 7 Rule 11. Since all contentions of the parties including the disclosure of cause of action and the bar of benami plea under the Benami Act are kept open, as noted above, learned Counsel for the Applicants/Defendants does not press his notice of motion. Notice of motion is disposed of as not pressed, keeping all contentions open. Since the insolvency of Plaintiff No.1 has been already annulled, the presence of Official Assignee is dispensed with.

(S.C.GUPTE, J.)