

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

CHAMBER SUMMONS NO. 946 OF 2015

IN

SUIT NO. 1010 OF 2012

K.A. Malle Pharmaceuticals Ltd. ...Plaintiffs/Applicants

Vs.

The Pen Co-op.Urban Bank Ltd. & Anr. ...Defendants

Mr.Advait M. Sethna with Ruju Thakkar I/b. D.P. Singh for
Applicant/Plaintiff.

Mr.Ratnesh Dube I/b. Rutuja Ambekar for Defendant No.1.

Mr.Bhushan Walimbe for Proposed Defendant No.2.

CORAM : S.C. GUPTE, J.

DATE : 24 SEPTEMBER 2018

P.C. :

Heard learned Counsel for the parties.

2 This chamber summons seeks amendment of the plaint by impleading Maharashtra State Co-operative Bank Ltd. (Respondent to the chamber summons) as a Defendant to the suit.

3 The subject matter of the suit is a money claim against Pen Co-operative Urban Bank Ltd. (original Defendant). The Plaintiffs claim to have transferred a sum of about Rs.29.87 crores from their account held with Cosmos Co-operative Bank Ltd., Vile Parle (East) Branch, Mumbai to their own account held with the Defendant bank. The transfer was by way of a Real Time Gross Settlement (RTGS). It is the Plaintiffs' grievance that the credit of this amount has not been given to the Plaintiffs' account with the Defendant bank. The Plaintiffs, accordingly, seek a money decree

against the Defendant bank. The present chamber summons has been taken out seeking to implead the proposed Defendant on the basis that for the purposes of money transfer through RTGS the proposed Defendant bank, which is an Apex Co-operative Bank, was a receiving bank through an arrangement made with the Defendant bank. The statement of account of the Defendant bank in the accounts of Apex Bank, namely, Maharashtra State Co-operative Bank (proposed Defendant) reflects the credit of Rs.29.87 crores in the account of the Defendant bank as monies transferred from the Plaintiffs. It is the Applicants/Plaintiffs' own case in the chamber summons as also in the proposed amendment that this amount was duly received by MSCB on behalf of the Defendant Bank pursuant to the RTGS transfer and that receipt of this amount by that bank is not disputed even by the Defendant bank. On these facts, merely because the proposed Defendant was a receiving bank on behalf of the Defendant bank, the former cannot be joined as a party Defendant. Its presence is neither necessary so that in its absence a decree cannot be passed in the present suit nor proper so that its presence is necessary, in the view of the court, for proper adjudication of the suit herein.

3 Though the Plaintiffs aver in the proposed schedule of amendment that they are claiming reliefs in respect of the transaction not merely against the Defendant bank but also against the proposed Defendant, no prayer in that behalf is set out in the proposed schedule of amendment.

4 In the premises, there is no merit in the chamber summons. The chamber summons is dismissed.

5 The statement of account of the Defendant bank in the accounts of the proposed Defendant produced by the Plaintiff, and which is not disputed by either the original Defendant or the proposed Defendant, is kept on record, marked “X” for identification.

(S.C. GUPTE, J.)