

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

CHAMBER SUMMONS NO.449 OF 2016

WITH

CHAMBER SUMMONS NO.845 OF 2017

WITH

CHAMBER SUMMONS NO.140 OF 2018

IN

SUIT NO.59 OF 1984

Madanlal Motilal Kothari

....Plaintiff

Vs.

Sushiladevi S. Kothari and Ors.

....Defendants

Ms. Preeti Shah for plaintiff and for applicant in CHS/845/2017 and CHS/140/2018.

Ms. Tanya Barwal I/b. M.P. Vashi and Associates for applicants in CHS/449/2016.

Ms. Deepti Panda I/b. Kanga and Co. for defendant nos.3(a), 3(b), 3(d), 3(e), 3(f), 4(a), 4(b), 4(c), 4(d), 4(e), 4(f), 5(a), 5(b), 5(c) and 5 (d).

CORAM : K.R.SHRIRAM, J.

DATE : 28th AUGUST, 2018

P.C.:

CHAMBER SUMMONS NO.449 OF 2016

1 As recorded in the order dated 9th June 2017, applicants were to apply to the appropriate Court within one week for an order declaring defendant 3(c) as dead. There is nothing on record to indicate such an application has been made or such an order declaring defendant no.3(c) as dead has been obtained.

2 In the circumstances, chamber summons dismissed with liberty to applicants to bring themselves on record once they are able to establish that defendant no.3(c) is actually dead.

CHAMBER SUMMONS NO.140 OF 2018

1 This chamber summons is to bring on record the legal heir of plaintiff and to amend the plaint as per the Schedule annexed to the chamber summons.

2 Ms. Shah, counsel for applicant states that all defendants/proposed defendants have been served and an affidavit of service will be filed within two weeks from today. Ms. Shah also states that despite service, none of the defendants/proposed defendants have filed any affidavit or atleast serve upon applicant any affidavit opposing the chamber summons. Statement accepted.

3 Ms. Panda states that applicant in paragraph 4 of the affidavit in support of the chamber summons has averred that original plaintiff Madanlal Motilal Kothari had executed a Will dated 21st August 2017 and applicant and his mother Nirmala Madanlal Kothari were appointed as Executors of the Will. Ms. Panda states that either Nirmala Madanlal Kothari should also come in as co-plaintiff or should give her consent to applicant to be made as a sole plaintiff and she be brought on record as a co-defendant. Ms. Shah states that within two weeks from today, an affidavit of Nirmala Madanlal Kothari, to that effect will be filed and copy served upon the other side.

4 In the circumstances and also as nobody has opposed this chamber summons, chamber summons is allowed and accordingly disposed

in terms of prayer clause – (a).

5 Amendment to be carried out and copy of the amended plaint to be served within two weeks from today.

6 Should any of the newly added defendants wish to file written statement, they may file the written statement and serve a copy thereof within two weeks of receiving copy of the amended plaint.

7 Stand over to 28th September 2018 for directions.

CHAMBER SUMMONS NO.845 OF 2017

1 Ms. Panda states that though technically applicant in chamber summons no.140 of 2018 should be brought on record in this chamber summons, without being technical, her instructions are to agree for this chamber summons subject to keeping open the rights and contentions of defendants.

2 Keeping open the rights and contentions of defendants, this chamber summons is allowed and accordingly disposed.

3 Amendment to be carried out and copy of the amended plaint to be served within two weeks from today. Additional written statement to be filed and copy served within two weeks of receiving copy of the amended plaint.

Gauri
Amit
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(K.R. SHRIRAM, J.)