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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 1822 OF 2010
WITH
CHAMBER SUMMONS NO. 615 OF 2016**

Janak Mathuradas Morarji & Anr	...Plaintiffs
<i>Versus</i>	
Behrose Darab Madan	...Defendant

**Mr Simil Purohit, with Faran Khan, Manish Doshi & Ashwin
Poojari, i/b Vimadalal & Co., for the Plaintiffs.
Mr Prashant Tikore, i/b Zenobia S Irani, for the Defendant.**

**CORAM: G.S. PATEL, J
DATED: 10th December 2018**

PC:-

1. Mr Purohit for the Plaintiffs submits that the amendment that is proposed, though at a late stage of the proceedings, is necessary because it only brings on record the fact of another parallel litigation between these very parties in the Court of Small Causes at Mumbai relating to these very premises. In fairness, he points out that an earlier attempt to introduce this litigation record in evidence was unsuccessful precisely for want of a necessary supporting pleading. With equal fairness, Mr Tikore points out that the fact of this litigation and the result is not in dispute although the consequences

of that to the present cause of action are not agreed. All contentions are left open in that regard.

2. The only real opposition to the Chamber Summons is one of delay, which is noted. With even more admirable fairness, Mr Tikore for the Defendant states that since this litigation history is not in dispute, the Defendant does not seek leave to file an Additional Written Statement as there is nothing to controvert. He only seeks that any submissions based on the Court of Small Causes litigation be treated as not accepted. Obviously, all contentions are left open.

3. Indeed to ensure that there is no room for controversy, I will allow the Defendant the latitude of treating her Affidavit in Reply to this Chamber Summons as an Additional Written Statement, if necessary.

4. The Chamber Summons is allowed in these terms. There will be no order as to costs.

5. Amendment to be carried out on or before 21st December 2018. A copy of the amended Plaintiff will be served on Ms Irani for the Defendant within two weeks thereafter.

6. The documents previously marked “X1” and “X2” for identification are thus now marked **Exhibit “P13”** and **Exhibit “P14”**, respectively in evidence.

7. The Commissioner, Mr Kunal Mehta is requested to resume recording cross-examination.

8. List the Suit on 13th February 2019 for directions and progress before the Commissioner.

(G. S. PATEL, J)