

sg

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.877 OF 2017

IN

SUIT NO.2445 OF 2012

CHAMBER SUMMONS NO.1191 OF 2018

(NOT ON BOARD, MENTIONED, TAKEN ON BOARD)

IN

SUIT NO.2445 OF 2012

WITH

NOTICE OF MOTION NO.309 OF 2017

IN

SUIT NO.2445 OF 2012

Shabbir S. Khan

...Plaintiff

vs

Suresh Rewachand Lakhiani And Ors.

...Defendants

....

Mr. J.P. Singh, for the Applicants.

Mr. Sharan Jagtiani, a/w. Mr. Priyank Kapadia, i/b. Ms. Minal Chandnani,
for Defendant Nos. 1 and 2.

.....

CORAM : S.C. GUPTE, J.

DATED : OCTOBER 19, 2018

P.C. :

. Chamber Summons No.877 of 2017 is taken out by legal heirs of a deceased transferee of the Plaintiff herein. The Applicants claim as legal heirs of the assignee. The assignment is contested by the Defendants, who show cause to the chamber summons. The Defendants' contest as to the assignment will be considered at the time of hearing of the suit. Presently, the assignment having been claimed to have taken place during the

pendency of the suit and the existing Plaintiff not opposing such case and the assignee having died during the pendency of the suit, the legal heirs of the purported assignee are required to be joined as Plaintiff Nos. 2, 3 and 4 to the present suit. It is ordered accordingly. All rights and contentions of the parties on merits of the purported assignment are kept open. The amendment to be carried out within two weeks. The chamber summons is disposed of in the above terms.

2. Chamber Summons No.1191 of 2018, which is not on board, but which is mentioned and taken on board and called out by consent of parties, is for deletion of deceased Defendant No.1. The two Defendants are arraigned in their capacity as executors of the last will and testament of the deceased original owner of the suit property, who is the Plaintiff's vendor. Defendant No.1 has admittedly died during the pendency of the suit. Accordingly, his name ought to be deleted from the cause title of the suit and consequential amendments be made in the body of the plaint. The chamber summons is, accordingly, allowed in terms of prayer clauses (a) and (b). Amendment to be carried out within two weeks. The chamber summons is disposed of.

3. Notice of motion to come up on 21 November 2018.

(S.C. GUPTE, J.)