

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 707 OF 1988

WITH

CHAMBER SUMMONS NO. 803 OF 2017

AND

CHAMBER SUMMONS NO. 705 OF 2018

Rahul S Palan & Anr

...Plaintiffs

Versus

LP Palan & Ors

...Defendant

Mr Jeetendra Ranawat, i/b Sudhakar G Lakhani, for Defendants
Nos. 2 to 6.

CORAM: G.S. PATEL, J

DATED: 5th September 2018

PC:-

1. Chamber Summons No. 705 of 2018 is not on board. Mentioned. Taken on board.
2. This Chamber Summons seeks to withdraw previous Chamber Summons No. 803 of 2017; condone a delay of 771 days in deleting the name of Defendant No. 7; another delay of 588 days in deleting the name of Defendant No. 1; to set aside the abatement, if any and to permit the amendment in terms of the Schedule to the present Chamber Summons of 2018.
3. Although the Chamber Summons is most vigorously opposed, I am unable to find any discernible and tenable ground for

opposition. The application is made precisely on the basis that previous Advocate materially misdirected himself in framing Chamber Summons No. 803 of 2017. He included only some of the heirs but excluded others. That would have rendered the administration Suit entirely vulnerable for no fault of the Plaintiffs themselves. The administration is sought of the estate of the paternal grandfather of the present Plaintiffs. They have been joined after their father, the original Plaintiff, passed away.

4. In these circumstances, it would be, in my view, wholly inequitable to allow the Suit to be defeated by, as it were, not just a self-goal but one made by the goalkeeper selected by the Plaintiffs.

5. Chamber Summons No. 803 of 2017 is dismissed as withdrawn. No costs.

6. Chamber Summons No. 705 of 2018 is accordingly made absolute in terms of prayer clauses (a), (b) and (c). Amendments to be carried out on or before 28th September 2018. A copy of the amended plaint will be served on the Advocates for all the Defendants. The Written Statements not already filed and supplementary Written Statements are to be filed and served on or before 20th December 2018.

7. List the Suit for framing issues on 15th January 2019.

(G. S. PATEL, J)