

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

CHAMBER SUMMONS NO. 164 OF 2017

IN

SUIT NO. 468 OF 2016

Sunarch Enterprises

...Plaintiff/Applicant

Vs.

Sainath Builders & Developers & Ors.

...Defendants

Mr.M.K. Tanna for Plaintiff.

Mr.S.a. Bhagwat for Defendant No.2.

Mr.Pradip R. Kadam for Defendant Nos.3 and 4.

CORAM : S.C. GUPTE, J.

DATE : 19 JANUARY 2018

P.C. :

Heard learned Counsel for the parties.

2 The chamber summons seeks amendment of the plaint in terms of the schedule annexed to the chamber summons. The cause for amendment arises as a result of certain disclosures made by the Defendants in pursuance of an order passed by this court on 5 January 2017. The disclosures include certain documents, which contain accounts of partnership firm represented by the Defendants as also minutes of hearing in an arbitration reference in an *interse* dispute between the partners, who are Defendant Nos.2 to 4 to the suit.

3 The chamber summons is opposed by Defendant No.2 by filing a reply. There is no reply on the part of Defendant Nos.3 and 4. Defendant No.2 objects to the amendment on the ground that the amendment seeks to

fill up a lacuna as a result of which unconditional leave to defend was granted to the Plaintiff. There is no reason why the Plaintiff should not be allowed to fill up the lacuna. The trial has not anyway begun and the Defendants will have an opportunity to deal with the amended plaint by filing an additional written statement. All contentions of the parties on merits of the amendment can be kept open.

4 Accordingly, the chamber summons is made absolute in terms of prayer clauses (a) and (b). Amendment to be carried out within two weeks. All rights and contentions of the parties on merits of the amendment are kept open, to be agitated in the trial.

5 Defendant No.2 may file an additional written statement within a period of four weeks from today. Defendant Nos.3 and 4 may also file their written statement within four weeks from today. The commercial suit to come up for framing of issues on 22 February 2018.

6 The chamber summons is disposed of.

(S.C. GUPTE, J.)