

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 1493 OF 2016
IN
SUIT NO. 2953 OF 2010
WITH
CHAMBER SUMMONS NO. 914 OF 2017**

Abis Constructions ...Plaintiff
Versus
Mohd Mazahar Hussain & Anr ...Defendants

Mr Akash Rebello, *with Mahesh Mishra, I/b Ravi Thankaian, for the Applicant/Plaintiff.*
Mr Kunal Damle, *with Rupesh R Lanjekar, for the Defendant No. 1.*

CORAM: G.S. PATEL, J
DATED: 21st November 2018

PC:-

CHAMBER SUMMONS NO. 914 OF 2017

1. The Suit was initially instituted against M/s Abis Constructions, a sole proprietorship of Abis Akhtar Rizvi. He was killed in a terrorist attack in Istanbul, Turkey on 1st January 2017. The Applicant, Akhtar Hasan Rizvi, is his father and seeks to be brought in his place.

2. The Chamber Summons is opposed on the basis that the deceased's father, Akhtar Hasan Rizvi, claims that the property that is the subject matter of the suit belongs to a partnership firm. These are issues that will be decided at the trial. The Defendants' contentions, including as to the maintainability of the suit after the amendments, are expressly kept open.

3. Amendments to be carried out on or before 7th December 2018. A copy of the amended plaint is to be served on the Advocates for the Defendants within one week thereafter.

4. An Additional Written Statement may be filed and served on or before 11th January 2019.

5. The Chamber Summons is disposed of in these terms. No costs.

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6. This is another Chamber Summons by the Plaintiff. I will permit the Chamber Summons itself to be amended so as to show the Applicant as Akhtar Hasan Rizvi. I will also permit the amendments to bring on record certain subsequent events.

7. Amendments to be carried out on or before 7th December 2018. A copy of the amended plaint is to be served on the Advocates for the Defendants within one week thereafter.

8. An Additional Written Statement may be filed and served on or before 11th January 2019.
9. The Chamber Summons is disposed of in these terms. No costs.
10. List the Suit for framing issues on 18th January 2019.
11. I note that a preliminary issue of limitation had earlier been framed under Section 9A of the Code of Civil Procedure 1908. Upon the repeal of that section, this issue will be framed as an issue in the Suit itself.

(G. S. PATEL, J)