

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

**CHAMBER SUMMONS NO. 160 OF 2017
WITH
NOTICE OF MOTION NO. 150 OF 2016
WITH
NOTICE OF MOTION NO. 123 OF 2017
WITH
CHAMBER SUMMONS NO. 273 OF 2017
WITH
NOTICE OF MOTION NO. 750 OF 2017
WITH
NOTICE OF MOTION (LODG.) NO. 642 OF 2018
IN
COMMERCIAL SUIT NO. 314 OF 2016**

Harmony Innovation Shipping Ltd.

.. Plaintiff

Vs.

Cargo of 57080 MT of INDONESIAN
STEAM COAL in bulk currently laden on board
M.V. COMMON VENTURE at Port and Harbor
Dharamtar & Ors.

.. Defendants

Mr. Vishal Sheth a/w. Ms. Ridhi Nyati i/b Ashwin Shaner for plaintiff.

Mr. Deven Chauhan i/b S.R. Ghate for proposed defendant/respondent in
CHSCD/160/2017 (for Piyush Marodia).

Ms. Gaurangi Patil i/b GR & Associates for Defendant No.3 (Gupta Coal).
Mr. Ankit Tripathi a/w. Mr. Filji Frederick i/b FF and Associates for
applicant in CHSCD/273/2017 and NMCDL/642/2018.

CORAM : K.R.SHRIRAM, J.

DATE : 18TH APRIL 2018

P.C.

CHAMBER SUMMONS NO. 160 OF 2017

1 At the outset, Shri Sheth seeks leave to amend the schedule, to strike off proposed defendant nos.4, 5, 6 and 7 and consequently amend the

proposed paragraph No.1A.

Leave granted. Amendment to be carried out forthwith.

2 Shri Sheth states that his instructions are that independent proceedings be taken against proposed defendant nos.4, 5, 6 and 7 and plaintiff will pursue that independent proceedings against these four parties, i.e. proposed defendant nos.4, 5, 6 and 7.

3 Shri Chauhan appearing for defendant/respondent no.1, i.e., proposed defendant no.4 (originally shown as proposed defendant no.8) states that since this is only an amendment application to implead Shri Piyush Marodia, who has, in fact, signed the consent terms, the Court may allow the chamber summons leaving open the rights of Shri Piyush Marodia to raise all defence in the written statement to be filed.

4 In the circumstances, the chamber summons allowed in terms of prayer clause (a).

Amendment to be carried out and amended plaint to be served without one week from today.

Written statement to be filed within four weeks. Should the other defendants wish to file further written statement, they may do so within four weeks of receiving the amended plaint.

5 Shri Chauhan also waives service of the writ of summons.

6 Chamber summons accordingly disposed.

NOTICE OF MOTION NO. 150 OF 2016

7 Shri Sheth for applicant seeks leave to withdraw this notice of
motion and seeks liberty to take out contempt petition.

Notice of motion dismissed as withdrawn with liberty as sought.

CHAMBER SUMMONS NO. 273 OF 2017.

8 Pleadings are not paginated.

Stand over to 25th April 2018.

NOTICE OF MOTION NO. 750 OF 2017

9 The notice of motion is for various reliefs mentioned therein basically
for a decree in terms of prayer clause mentioned therein be granted against
certain parties mentioned therein.

10 First of all, the parties herein are not parties to the suit. Except for
Shri Piyush Marodia, plaintiff has dropped the idea of joining others as
party defendants in the suit, as recorded in Chamber Summons No.160 of
2017.

11 Therefore, so far as those parties have been struck off, the question
of Court granting any decree does not arise. In so far as Piyush Marodia is

concerned, plaintiff's amendment to implead Piyush Marodia as defendant to the suit, has been granted in Chamber Summons No.160 of 2017. Shri Piyush Marodia as been granted leave to file a written statement. Therefore, the question of granting a decree against Shri Piyush Morodia as prayed for in this notice of motion does not arise at this stage.

12 Notice of motion dismissed.

**NOTICE OF MOTION NO. 123 OF 2017
WITH
NOTICE OF MOTION (LODG.) NO. 642 OF 2017**

13 To be taken up along with notice of motion No. 273 of 2017.

All office objections to be removed and notice of motion (Lodg.) No.642 of 2017 to be numbered before the next date.

The counsel will also ensure that all the applications are properly paginated.

14 Stand over to 2nd May 2018.

(K.R. SHRIRAM, J.)