

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 951 OF 2017**

IN

SUIT NO. 1673 OF 1998

Shailesh H Bajaj	...Plaintiff
<i>Versus</i>	
Creative Garments Pvt Ltd & Anr	...Defendants

Ms Sonal, i/b DAS Associates, for the Plaintiff/Applicant..
Mr Sharan Jagtiani, with Nirman Sharma, i/b Girish Kedia, for the
Defendants.

CORAM: G.S. PATEL, J
DATED: 29th January 2018

PC:-

1. This is an application for amendment of the plaint. Though Ms Sonal may be correct in saying that the proposed amendment relates to later events of 2015, the fact remains that issues have been settled and the documents of the Plaintiff have been marked as far back as in 2015. Having regard to the nature of the amendment, I do not believe that any part of it is strictly speaking as a pleading properly so called. The whole of it appears to me to be in the nature of evidence, or a narrative of events although post suit. This is not the kind of evidence that could be shut out on the basis that there is

“no foundation laid in pleadings”. In fairness this is not even the suggestion of Mr Jagtiani who appears for Defendant No. 1.

2. In that view of the matter, the Chamber Summons can be disposed of by permitting the Plaintiff to file a further Evidence Affidavit containing the statements of fact contained in the proposed amendment. I make it clear that, if necessary, the further evidence affidavit so permitted will need to be a suitable or appropriate variation or modification of the draft amendment so as to remove all submissions, inferences and other material that is inadmissible as evidence.

3. It goes without saying that the Plaintiff is at liberty to adduce further documents at any stage before his cross-examination begins, including those documents referred to in the proposed amendment.

4. The Chamber Summons is disposed of in these terms. There will be no order s to costs.

(G. S. PATEL, J)