

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

CHAMBER SUMMONS NO.1164 OF 2015

IN

SUIT NO.899 OF 2014

Viresh Bapulal Ghatlia And Another	...	Applicants/Plaintiffs
Versus		
Neepa Real Estate Pvt. Ltd. And Others	...	Defendants/Respondents

.....

Mr. Uday Bobde a/w Mr. Prashant Naik, Ashraf Diamondwala I/b Diamondwala & Co. for the Applicants/Plaintiffs.

Dr. Birendra Saraf a/w Mr. Pratik Kothari I/b I.C. Legal for Defendant No.1.

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CORAM : S.C. GUPTE, J.

DATE : 8 OCTOBER 2018

P.C. :

. Heard learned Counsel for the parties.

2 This Chamber Summons seeks amendment of the plaint by correcting the description of the suit property in the schedule to the plaint, annexed as Exhibit 'A'. The schedule refers to the correct plot number as "City Survey No.345/A". Whereas, according to the Plaintiffs, the correct description is City Survey No.345/A/7. The amendment is opposed by Defendant No.1. Learned Counsel for Defendant No.1 submits that the suit is based on a document on record, namely, deed of exchange dated 9 April 1974, which describes the suit plot as City Survey No.79. Learned Counsel submits that the same plot number was originally reflected in the

description of the suit property in the plaint and since the suit claim is based on a title document, which does not describe it as City Survey No.345/A/7, no such amendment ought to be allowed. The identity of the plot and in particular, whether it bears City Survey No.345/A/7 or City Survey No.345/A or City Survey No.79, are matters of merit and all contentions in this behalf are clearly open. The amendment cannot be refused on the ground of such merits. Accordingly, the Chamber Summons is made absolute in terms of prayer clause -(a). Amendment to be carried out within two weeks.

3 The Plaintiffs are also permitted to annex to the plaint a plan of the suit property obtained by them from the Collector's Office.

4 The Defendants shall have liberty to file additional written statement/s within eight weeks from the service of the amended plaint.

5 The Chamber Summons is disposed of accordingly.

(S.C. GUPTE, J.)