

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

CHAMBER SUMMONS NO.1054 OF 2017

IN

SUIT NO.103 OF 2015

Sandeep G. Raheja

... Applicant/
Defendant No.1

In the matter between :

Mrs. Sonali Nimish Arora

... Plaintiff

Versus

Sandeep Gopal Raheja And Others ... Defendants

.....

Mr. Chirag Mody a/w Ms. Manisha Virkhare, Ms. Archana Karmokar I/b Divya Shah Associates for the Plaintiff.

Mr. D.J. Khambata, Senior Advocate a/w Mr. Jejeebhoy, Mr. Vivek Vashi, Ms. Arya Khan and Ms. Aditi Bhansali I/b Vivek A. Vashi for Defendant No.1 and the Applicant in Chamber Summons.

Mr. S.U. Kamdar, Senior Advocate a/w Ms. Ankita Singhania I/b Vivek A. Vashi for Defendant No.2.

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CORAM : S.C.GUPTE, J.

DATE : 31 JANUARY 2018

P.C. :

Minutes of Order

. The parties agree that the evidence in Suit No.2363 of 2012 on the preliminary issues framed under Section 9A of the Civil Procedure Code, 1908 (“**Code**”) shall be treated as and deemed to be evidence on the preliminary issues framed under Section 9A of the Code in Suit No. 103 of 2015 and vice-versa. For the avoidance of doubt, it is clarified that for the

above purpose the evidence of the Plaintiff recorded in Suit No. 2363 of 2012 will be treated as and deemed to be her evidence in Suit No.103 of 2015. It is also clarified that the evidence of Defendant No.1 and his cross-examination in Suit No.2363 of 2012 shall also be treated as and deemed to be his evidence in Suit No.103 of 2015.

2 The aforesaid arrangement is entirely without prejudice to the rights and contentions of the parties, including contention of the Plaintiff that the evidence recorded in Suit No. 2363 of 2012 is not relevant for the purposes of the determination of the preliminary issue raised under Section 9A of the Civil Procedure Code, 1908 in Suit No. 103 of 2015; and which contention is not accepted by the Defendant Nos. 1 and 2.

3 Defendant No. 1's witness Mr. Sandeep Raheja has filed an affidavit of evidence dated 19th June 2017 and a supplementary affidavit of evidence dated 6th July, 2017 in lieu of his examination in chief in Suit No. 103 of 2015. The two affidavits of evidence are taken on record and marked as Exhibits D1/18E and D1/18F as further examination in chief of DW-1.

4 The Documents produced with the Evidence Affidavits in the form of a Compilation of 66 Documents in Volumes Nos.1 to 4 are marked in evidence as follows for consistency and commonality of referencing.

Sr. No.	Marked in Suit No.2363 of 2012	To be marked in Suit No.103 of 2015
1.	D1/1 to D1/17	D1/1 to D1/17
2.	D1/18A	D1/18A (S. No.64 to Compilation of Documents)
3.	D1/18B	D1/18B (S. No.65 to Compilation of Documents)

4.	D1/18C	D1/18C (S. No.66 to Compilation of Documents)
5.	D1/18D	D1/18D (S. No.67 to Compilation of Documents)
6.	D1/19 to D1/219	D1/19 to D1/219
7.	----	D1/220 to D1/282 S. Nos. 1 to 63 to the Compilation of Documents

5 Mr. Shrinivas Bobde, Advocate, who has already been appointed as Commissioner for recording the cross examination of Mr. Sandeep Raheja in Suit No. 2363 of 2012 is also appointed as Commissioner for recording the cross examination of Mr. Sandeep Raheja in Suit No. 103 of 2015. The Commissioner shall continue to record the cross examination of Mr. Sandeep Raheja in Suit No. 103 of 2015 upon the conclusion of his cross examination in Suit No. 2363 of 2012. Fees and administrative charges to be shared equally between the Plaintiff and the Applicant/Defendant No.1 and the same will be costs in the Suit.

6 Liberty to apply.

(S.C. GUPTE, J.)