

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

**CHAMBER SUMMONS NO.1148 OF 2017
IN
ADMIRALTY SUIT NO.65 OF 2015**

Solitaire Marine & Offshore Pvt. Ltd.)...Applicant/plaintiff
V/s.

M.V.Pristine GV (IMO No.9118422))....Defendants

Mr.Nimay Dave a/w Mr.Ashwini Sinha i/by Bose & Mitra and Co. for
the applicant/plaintiff.

Mr.Amey Patil i/by Sapana Rachure for defendant no.1.

CORAM : K.R.SHRIRAM,J

DATE : 10.1.2018

P.C.:-

1 At the outset, Mr.Dave for the applicant seeks leave to
amend the schedule to the chamber summons. Leave granted.
Amendment to be carried out forthwith.

2 This chamber summons is taken out for leave to amend the
plaint. Plaintiff is seeking amendment on the ground that in the
written statement filed on behalf of defendant no.1 it is stated that
one M/s.Pristine Shipping INC. of Liberia was the owner of defendant
no.1 vessel and defendant no.2 was a commercial manager of
defendant no.1 vessel. Since the plaint has proceeded on the basis
that defendant no.2 was the owner of defendant no.1 vessel, plaintiff

have felt it necessary to bring this fact as mentioned in the written statement of defendant no.1, on record.

3 The suit is still at pre trial stage. It is settled law that court is liberal in allowing such an amendment application when it is at pre trial stage unless the proposed amendment alters the nature and character of the suit or changes the cause of action or is malafide or ex-facie barred by limitation. It is also settled law that the court does not consider merits in the proposed amendment while considering the application for leave to amend the plaint.

4 I have considered the proposed amendment and also the averments in the plaint and the written statement. It is true that in the written statement of defendant no.1, it is mentioned that M/s.Pristine Shipping Inc. of Liberia was the owner of defendant no.1 vessel and defendant no.2 was the commercial manager of defendant no.1-vessel.

5 Having considered the proposed amendments, in my view, it does not change the nature and character of the suit. Even the cause of action does not change because the suit as against defendant no.1 continues to be an action in *rem*. I also do not see

anything in the application to come to a conclusion that it lacks bonafide. No additional prayer is being inserted and hence the question of any of the proposed amendment being barred by limitation does not arise.

6 In my view, the amendment will be useful and necessary to effectively consider the merits of the case and dispose of the suit. Keeping open the rights and contentions of the defendants to raise all objections in their further written statement, Chamber summons is allowed in terms of prayer clause-(a). Amendment to be carried out and amended plaint to be served within 2 weeks from today. Should defendants wish to file written statement/additional written statement, the same to be filed and copy served within two weeks of receiving the amended plaint.

7 Suit be listed for directions on 9.2.2018.

(K.R.SHRIRAM,J)