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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (L) NO. 499 OF 2018

IN

CHAMBER SUMMONS NO.854 OF 2017

IN

SUIT NO.894 OF 1986

ALONGWITH

NOTICE OF MOTION NO.1228 OF 2018

IN

APPEAL (L) NO. 499 OF 2018

Life Insurance Corporation of India

....Appellants
(Original Defendants)

V/s

Sanjeev Builders Private Limited
and Anr.

.... Respondents.

Ms. Snehal Paranjape alongwith Mr. J.P. Kapadia, Mr. O. Mohandas
I/b M/s. Little & Co. for the Appellants.

Dr. Birendra Saraf alongwith Ms. Deepti Panda and Ms. Akanksha
Patil I/b M/s. Narayan and Narayan for the Respondent.

**CORAM: B. R. GAVAI &
RIYAZ I. CHAGLA, JJ.**

DATE: 13th December, 2018

P.C.:-

1] Appellants challenge the Order dated 11/09/2018 whereby the
Chamber Summons filed by the Respondents for amendment of the

Plaint came to be allowed.

2] Ms. Paranjape, learned Counsel appearing on behalf of the Appellants, submits that by way of amendment, Respondents/Plaintiffs have been permitted to change the entire cause of action which was initially raised in the plaint. She submits that this could not have been done unless leave under Order II Rule 2 was obtained. She further submits that the amendment is allowed after a period of 30 years without there being any justification for the same.

3] Dr. Saraf, learned Counsel appearing on behalf of the Respondents/Plaintiffs, opposes the appeal.

4] Undisputedly, trial is yet to commence. The amendment has been allowed by the learned Single Judge by giving cogent and sound reasons. Merely because the Plaintiffs are permitted to amend the plaint does not mean that the claim which has been made by the Plaintiffs by way of amendment would be granted by the Court. Defendants can always file an additional Written Statement to contest

the claim of the Plaintiffs. In such additional Written Statement, Appellants can also raise a ground with regard to limitation which will have to be gone into by the learned Single Judge. In any case, in the present case, Appellants have also filed additional Written Statement so as to meet the grounds brought on record by way of amendment.

5] In that view of the matter, we do not find that this is a fit case to interfere with the discretion exercised by the learned Single Judge. Appeal is therefore rejected.

6] In view of disposal of appeal, Notice of Motion No.1228 of 2018 taken out therein, does not survive and the same is also disposed of.

(RIYAZ I. CHAGLA J.)

(B. R. GAVAI, J.)