

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 9657 OF 2019**

Dr. Ramesh Keshav Jadhav

... Petitioner

V/s

Kabra Estate & Investment  
and Consultants Ors

.... Respondents

Dr. Ramesh K. Jadhav, Petitioner in-person.

Mr. Kiran S. Mohite, for Respondent No.1.

Mr. Shankar P. Thorat, for Respondent No.3-MHADA.

**CORAM : UJJAL BHUYAN, J.**

**DATE : NOVEMBER 18, 2019.**

**P.C.:-**

Heard Dr. Ramesh Keshav Jadhav, petitioner in-person,  
Mr. Kiran S. Mohite, learned counsel for respondent No.1 and  
Mr. Shankar P. Thorat, learned counsel for respondent No.3.

2 Petitioner as the plaintiff has instituted Suit No. 1371 of  
2014 against respondent No.1 and others, primarily seeking  
a decree against respondent No.1 (Defendant No.1) to  
provide permanent accommodation of two flats, each having  
carpet area of 800 sq. ft. adjoining and road facing, with two  
parking areas in lieu of flat No.211/10. In that suit petitioner  
had sought for issuance of chamber summons for amendment

of the plaint which was registered as Chamber Summons No. 370 of 2019. Learned Court below noted that trial of the suit has commenced and at this stage chamber summons for amendment of the plaint was not required to be issued. Hence, order was passed on 20.06.2019 the rejecting the prayer for issuance of chamber summons. Aggrieved, the present writ petition has been filed.

3 Order VI Rule 17 of the Code of Civil Procedure, 1908 deals with amendment of pleadings. The provision provides that the Court may at any stage of the proceedings allow either party to alter or amend his pleadings in order to determine the real question(s) in controversy between the parties, provided that no such application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before commencement of trial.

4 Petitioner submits that because of typographical error certain clarifications were required to be made in the plaint. Therefore, amendment was sought for in the nature of

clarification of the reliefs claimed.

5 A perusal of the order dated 20.06.2019 would go to show that the trial Court had taken note of the fact that trial of the suit has commenced; petitioner had not shown that despite due diligence at the time of filing of the plaint, he could not raise the matter and therefore, came to the conclusion that no case for issuing chamber summons was made out.

6 Learned counsel for respondent No.1 submits that evidence on behalf of the petitioner has been closed after his cross-examination. Even cross-examination of defendant No.1 is also over. Now, evidence of defendant No.2 is required to be taken.

7 Be that as it may, from the materials on record it is seen that learned Court below has framed as many as nine issues for adjudication in the civil suit which includes entitlement of the plaintiff to permanent alternate accommodation in lieu of flat No. 211/10 as per issue No.4. Since the Court below has declined amendment sought for by the petitioner, it is made

clear that while adjudicating the suit including issue No. 4 as noted above, the trial court shall keep in mind the basic prayer made by the petitioner (plaintiff).

8 Considering the above, while this Court is not inclined to interfere with the order passed by the trial Court declining issuance of chamber summons for amendment of the plaint, however, trial Court may expedite adjudication of the suit keeping in mind the observation made above.

9 Writ Petition stands disposed of.

**(UJJAL BHUYAN, J.)**