

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

**WRIT PETITION (STAMP) NO. 34647 OF 2017**

Smt. Shubhani Deepak Sahakari & Ors.      ...Petitioners  
Versus  
State of Maharashtra & Ors.                      ...Respondents

Ms. Pooja Joshi i/b Mr. Ashok M. Saraogi for Petitioners.

**CORAM : N. J. JAMADAR J.  
DATE : OCTOBER 10, 2019**

**P.C. :**

1. Heard Ms. Pooja Joshi, the learned Counsel for the petitioners.
2. This petition assails the order dated 24<sup>th</sup> October, 2017 passed by the learned Judge, City Civil Court, whereby the Chamber Summons taken out by the petitioners herein, to implead them as the legal representatives of Late Deepak V. Sahakari, who was stated to be the sole Director of M/s. Sahakari Chemicals Pvt. Ltd.; the plaintiff, came to be rejected.
3. By the impugned order, the learned Judge was persuaded to reject the application as there was no material on record to indicate that the deceased Deepak V. Sahakari was the Director of the said Company on the date of the institution of the suit.

4. Evidently, the suit has been instituted by one corporate entity against another corporate entity. The plaint in the said suit does not give any indication that the deceased Deepak V. Sahakari was the Director of the said Company.

5. The learned Counsel for the petitioners, however, urged that the said company closed its operation, as evidenced by the notification dated 8<sup>th</sup> January, 2010, and all the assets of the said company came to be vested in Deepak V. Sahakari, who was then the Sole Director of the Company, and the said Mr. Deepak V. Sahakari bequeathed all the assets to the applicants and, therefore, they are now entitled to prosecute the claim against the defendant.

6. In the affidavit-in-support of the Chamber Summons, certain assertions are made on the aforesaid lines. However, the prayer in the Chamber Summons was to bring the legal representatives of Late Deepak V. Sahakari as if the suit was instituted by the Late Deepak V. Sahakari in his personal capacity.

7. Faced with the aforesaid situation, the learned Counsel for the petitioners sought permission to withdraw the petition with liberty to take

out an appropriate comprehensive application bringing all the facts on record in support of the claim of the petitioners as regards their entitlement to prosecute the claim in the suit.

8. In the aforesaid backdrop and in the interest of justice, the petitioners are permitted to file an appropriate application in Suit No.8092/2000 and if such an application is made, the learned Judge City Civil Court shall deal with same in accordance with the law and, in that case, the rejection of Chamber Summons No.2510/2015 will not come in the way of the petitioners.

9. It is hereby made clear that this Court has not gone into the merits of the contentions of the petitioners and all the contentions of the parties to the proceedings are kept expressly open for consideration by the learned Judge City Civil Court.

10. The Petition stands disposed of with the aforesaid directions.

**(N. J. JAMADAR, J.)**