

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

CHAMBER SUMMONS NO.214 OF 2019

IN

COMMERCIAL SUIT NO.1232 OF 2018

Seven Stars Estates Pvt. Ltd.)....Applicant/Plaintiff

V/s.

Sheetal Shantaram Chavan & Ors.)....Defendants

Mr.Gaurav Mehta a/w Mr.Yogesh Gaikwad and Ms.Anasamah Sayed
I/by M/s.Bilawala and Co. for the applicant/plaintiff.

Mr.Kaustubh Gupte I/by Ashish Mehta for defendant nos.1 to 4.

Ms.Jyoti Chavan, AGP for defendant nos.9 to 12.

CORAM : K.R.SHRIRAM,J

DATE : 25.4.2019

P.C.:-

1. At the outset, Mr.Mehta for applicant states that all defendants except defendant nos.5 to 8 have received copy of the Chamber summons. Defendant nos.1 to 4 received it on 8.2.2019 but no reply has been filed opposing the Chamber summons.

2. Ms.Chavan AGP appearing for defendant nos.9 to 12 states that the Chamber summons can be allowed keeping open rights and contentions of defendants including limitation.

3. As far as defendant nos.5 to 8 are concerned, Mr.Mehta

states that the packets have come back undelivered and in any event, no relief has been sought against defendant nos.5 to 8. Mr.Mehta states that none of the defendants have even filed written statement.

4. Mr.Gupte for defendant nos.1 to 4 sought time to file a reply which has been declined because defendant nos.1 to 4 had almost 2 & ½ months time to file reply.

5. The proposed amendment is on the basis that certain new facts have come to the knowledge of plaintiff after the suit was filed and certain facts were missed out because the suit was lodged in a hurry. As it is a pre trial amendment and no reply has been filed by any one opposing the application, I am inclined to allow the Chamber summons keeping open rights and contentions of defendants to file written statement including to take defence of limitation and non stamping of document.

6. Chamber summons therefore, allowed in terms of prayer clause-(a). Amendment to be carried out and amended plaint to be served within 4 weeks from today. Written statement to be filed within 4 weeks of receiving the amended plaint. Writ of summons has been served on defendant nos.1 to 4.

7. Ms.Chavan learned AGP waives service of writ of summons on behalf of defendant nos.9 to 12.

8. As far as defendant nos.5 to 8 are concerned, the writ of summons has not been served and therefore, within one week from today, plaintiff to apply for issuance of writ of summons.

9. Registry shall also examine whether the present suit can be filed as a commercial suit.

10. Plaintiff/applicant to give donation of Rs.25,000/- to Bombay SPCA, The Bombay Society for the Prevention of Cruelty to Animals, Beneficiary Name : BSPCA INCL.BSDPHA, beneficiary account no.0064002100030631, account type : current, beneficiary bank name : Punjab National Bank, IFSC Code : PUNB0006400, MICR Code : 400024021, and this amount to be paid within 4 weeks from today. If not paid or affidavit proving payment is filed, within 4 weeks period, suit will stand dismissed without further reference to the Court.

(K.R.SHRIRAM,J)