

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
COMMERCIAL CHAMBER SUMMONS NO.461 OF 2018
IN
COMMERCIAL SUIT NO.235 OF 2018**

The Santacruz West End Co-op Hsg Sty Ltd & Ors	..Plaintiffs
Vs.	
K. Mordani Builders LLP & Ors	..Defendants
And	
The office of the Taxing Master	..Respondent

Ms Kausar Banatwala and Mr. Saurabh Utangale I/b Mr. Tushar A Goradia
for Plaintiff / Applicant
Ms Tanvi Shah I/b Wadia Ghandy & Co. for Defendant Nos.1 to 3
Mr. Khalid Kazi I/b C. K. Legal for Defendant No.6

**CORAM : K.R.SHRIRAM, J.
DATE : 4th MARCH, 2019**

P.C.:

1 This chamber summons is taken out for challenging the order passed by the Taxing Master on 6th March 2018, whereby, each of the plaintiff was directed to pay separate court fees and the total amount directed to be paid was additional Rs.19,50,200/-. The Taxing Master came to this conclusion because in prayer clauses (b), (c), (d), (f-i) and (f-ii) it is stated “pass a decree to pay to the members of plaintiff no.1.....” . The Taxing Master concluded that if each of the member seeks a decree, then each member should pay separate court fees.

2 Counsel for plaintiffs tenders a draft amendment to the plaint, which is taken on record and marked “X” for identification. Plaintiffs seek to add paragraph (1A) after paragraph No.1 in the plaint that the suit is filed by plaintiff no.1, a tenant co-partnership housing society and plaintiff nos.2 to 8 and defendant nos.4 to 6 are joined as proforma parties to the suit. No reliefs are sought against the proforma parties. Plaintiffs are also seeking to in fact delete the words “to the members of” from prayer clauses (b), (c), (d), (f-i) and (f-ii). Schedule contain replacement of prayer clauses (b), (c), (d), (f-i) and (f-ii). The replacement prayers are identical to prayer clauses (b), (c), (d), (f-i) and (f-ii) except the words “to the members of”, deleted.

3 Ms Shah appearing for defendant nos.1 to 3 has no objection. Mr. Kazi appearing for defendant no.6 states that he has no instructions but if no relief is sought against defendant no.6, he leaves it to the court to decide.

4 Having considered the submissions made by counsel for plaintiffs, proposed amendment, defendants' no objection and that no relief is sought in the plaint or proposed to be sought against defendant no.6, and consent terms have already been filed in the suit and the suit is decreed in terms of consent terms, I am inclined to allow the amendment as per the

draft tendered. Amendment to be carried out and amended plaint to be served within two weeks from today. Accordingly, the order impugned in the chamber summons is set aside. Chamber summons is allowed and disposed accordingly.

5 Just to clarify, the order passed today will have no bearing on the contempt petitions which are pending in this court.

(K.R. SHRIRAM, J.)