

dik

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.**

CHAMBER SUMMONS NO. 468 OF 2019

IN

SUIT NO. 167 OF 2013

Kifayatulla s/o Ahmedullah Farooqui & Ors. ...Applicants

In the matter between

Irfan Habib Farooqui & Ors. ...Plaintiffs.

VS

Kifayatulla s/o Ahmedullah Farooqui & Ors. ...Defendants

.....

Mr Aniket Ransubhe I/b Mr Ajay Basutkar for the plaintiffs.

Mr Firoz Bharucha I/b Mr Jatin Sheth for defendant Nos.1 to 4 /
applicants in Chamber Summons.

.....

**CORAM : B. P. COLABAWALLA, J.
JUNE 07, 2019.**

P.C. :

The present Chamber Summons has been filed by the applicants / defendant Nos.1 to 4 seeking to amend the Written Statement filed by them dated 16th August, 2013, as per the schedule annexed to the Chamber Summons. On perusal of the schedule, it appears that defendant Nos.1 to 4 seeks to raise certain additional defences other than what have already been raised by them in the Written Statement as already filed.

2

Learned advocate appearing on behalf of the plaintiffs

opposes the Chamber Summons on the ground that even though the original Written Statement is dated as far back as on 16th August, 2013, this Chamber Summons has been filed belatedly on 25th March, 2019. Hence the Chamber Summons ought to be dismissed.

3 After hearing the parties and on going through the schedule annexed to the Chamber Summons, I find that the amendments are only additional defences that are sought to be raised. In any event, it is well settled that the basis and parameters that apply for amendment of the Written Statement are very different from the amendment of the plaint, in as much as the Defendants are also entitled to take mutually destructive pleas. However, considering that the Chamber Summons has been taken out belatedly, Defendant Nos.1 to 4 would have to pay costs.

4 In these circumstances, the Chamber Summons is allowed in terms of prayer clause (a) subject to Defendant Nos.1 to 4 paying costs of Rs.10,000/- to the State Legal Aid Fund by Demand Draft within a period of two weeks from today and file a receipt of payment on record of this Court. Needless to clarify that if the costs are not paid within the aforesaid period, the Chamber Summons shall stand dismissed without further reference to the Court. If the costs are

paid within the aforesaid period, the amendment shall be carried out within a period of two weeks from the date of payment of the costs and a copy of the amended written statement shall be served upon the advocates for the plaintiffs within a period of two weeks thereafter.

5 The Chamber Summons is disposed of accordingly.

(B.P.COLABAWALLA, J.)