

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL CHAMBER SUMMONS NO.387 OF 2018
IN
COMMERCIAL IP SUIT NO.393 OF 2018**

Vibha Dutta Khosla and Ors.Plaintiffs

Vs.

Mohit Raina and Ors.Defendants

Mr. Anuj Desai I/b. Fox Mandal Partners for applicants/plaintiffs.

Mr. Sharique Nachan I/b. Faiz Merchand and Ramiz Shaikh for defendant no.1.

Mr. Zubin Behramkamdin a/w. Ms. Pooja Kshirsagar I/b. AZB and Partners for defendant nos.3 and 4.

Mr. Darshan Furia I/b. Mr. Ashish Mehta for defendant no.5.

CORAM : K.R.SHRIRAM, J.

DATE : 15th JULY 2019

P.C.:

1 This chamber summons is for leave to amend the plaint. In this case, even writ of summons has not been served and plaintiffs' counsel had no explanation whatsoever as to why writ of summons also has not been served on defendants.

2 Mr. Behramkamdin submitted that some admissions are being altered and that would prejudice defendants' rights. Mr. Behramkamdin read out the so called contradictions/admissions in the affidavit in support where they have allegedly culled out. I find no contradictions and any admissions. In any event, written statement is yet to be filed. I have also considered the amendments prayed for and I do not find that it changes the

nature and character of the suit or it is barred by limitation or malafide can be attributed.

3 In the circumstances, chamber summons is allowed and accordingly disposed in terms of prayer clause - (a). No consequential amendments are permitted.

4 Amendment to be carried out and copy of the amended plaint to be served within two weeks from today.

5 The counsel appearing for defendant nos.1,3,4 and 5 waive service of writ of summons. These defendants shall file written statement and serve a copy thereof within four weeks of receiving copy of the amended plaint.

6 So far as defendant no.2 is concerned, plaintiffs shall apply for issuance of writ of summons during the course of this week and serve the writ of summons directly by hand delivery within two weeks of issuance of writ of summons and by usual mode of service in due course.

7 Affidavit of service shall be filed on or before 16.08.2019. If these directions regarding defendant no.2 are not strictly and meticulously complied with, suit against defendant no.2 will stand dismissed without further reference to this Court.

8 Plaintiffs to pay a sum of Rs.30,000/- as donation to **Dean pbcf kem hospital**, K.E.M. Hospital, Dr. E. Borges Road, Parel, Mumbai – 400 012 within two weeks from today. .

(K.R. SHRIRAM, J.)