

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS No. 626 of 2019

IN

NOTICE OF MOTION No. 476 of 2015

IN

SUIT No. 668 of 2014.

Value Plus Commodities Pvt. Ltd. ..Applicant.

In the matter of :-

Value Plus Commodities Pvt. Ltd. ..Plaintiff.
Vs.

Bridget Souto ..Defendant.

Mr. Sunip Sen a/with Ms. Sutapa Saha & Ms Shubro Dey i/by Ms. Sutapa Saha for the applicant/Plaintiff.

Mr. A. N. Narula a/with Ms. Meena Bhatta I/by Jhangiani Narula & Associates for the defendant.

CORAM : B. P. COLABAWALLA, J.

DATED :- 3rd July, 2019.

P.C. :-

1. This Chamber Summons has been filed seeking an amendment to the prayers in Notice of Motion No. 476 of 2015 in Suit No.668 of 2014 as per the Schedule annexed to the Chamber Summons. By virtue of this Schedule, the plaintiff seeks to add two prayers to the Notice of Motion. The first prayer is to direct the

defendant to pay the society maintenance charges in respect of the suit flat from time to time. The second prayer and which is sought in the alternative is that the defendant be directed to handover 1/3rd possession of the suit flat to the plaintiff.

2. The learned Advocate appearing on behalf of the defendant has opposed this Chamber Summons on the ground that the prayers now sought to be inserted have nothing to do with the main dispute of specific performance in the suit. He submitted that in any event these prayers can never be granted at the interim stage and therefore this Chamber Summons is wholly misconceived and ought to be dismissed.

3. After having heard the learned Advocate appearing for the defendant, I am unable to accept this submission. This Chamber Summons is only for adding certain prayers in the Notice of Motion and which are interim in nature. Whether these reliefs can be granted or otherwise is something that the Court would consider on its own merits once the amendment is allowed. This, therefore, cannot be a ground for dismissing a Chamber Summons.

4. In these circumstances, the Chamber Summons is allowed in terms of prayer clause (a) which reads thus :-

(a) that this Hon'ble Court be pleased to permit the Plaintiff to amend the above Notice of Motion in accordance with the Schedule annexed hereto;

5. The amendment shall be carried out within a period of one week from today and the amended copy of the Notice of Motion with the newly added prayers shall be served upon the Advocates for the defendant one week thereafter. The defendant shall be at liberty to file an additional affidavit in response to these prayers that are now added as well as to bring some additional facts on record within a period of two weeks from the date of service of the amended Notice of Motion. The Chamber Summons is disposed of accordingly. No order as to costs.

6. List Notice of Motion No. 476 of 2015 on board on 7th August, 2019.

(B.P. COLABAWALLA, J.)