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

**CHAMBER SUMMONS NO. 602 OF 2019
IN
SUIT NO. 713 OF 2013**

Mr Neil John Creado ...Applicant/Plaintiff
VS
Golden Tobacco Ltd. & Anr. ...Defendants

.....
Mr E.K.Sasidharan for the Applicant/Plaintiff.
Mr Meti Sampat a/w Mr Akash Kothari I/b Little & Co. for Defendant
No.1.
Mr Sanmish Gala I/b Markand Gandhi & Co. for Defendant No.2.

Dhanappa
I. Koshti

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**CORAM : B. P. COLABAWALLA, J.
JUNE 10, 2019.**

P.C. :

Not on board. By consent of parties taken on board.

2 This Chamber Summons has been filed by the plaintiff seeking an amendment in the plaint in terms of the schedule annexed to the Chamber Summons.

3 On perusal of the schedule it appears that according to the plaintiff the entire property admeasures approximately 22,402.58 square meters and not 18,897 square meters. It is, in these circumstances, that the plaintiff claims that he and his brother are in

possession of the additional area of approximately 3515.58 square meters and seeks a declaration to that effect in the prayers that are sought to be brought on record.

4 This Chamber Summons is opposed by defendant No.1 by filing an affidavit-in-reply dated 10th June, 2019. In reply, it is the contention of defendant No.1 that the total area of the suit property is only 18,897 square meters and not 22,402.58 square meters as contended by the plaintiff.

5 Having heard both the sides and considering that the trial has not commenced and neither the nature of the suit is being changed, I am inclined to allow this amendment application. In these circumstances, the Chamber is allowed in terms of prayer clause (a). The amendment in the plaint as well as pending Notice of Motion No. 1448 of 2013 shall be carried out within a period of four weeks from today and the amended copy of the plaint and pending Notice of Motion No. 1448 of 2013 shall be served by the plaintiff on the advocates for the defendants within a period of two weeks thereafter.

6 It is clarified that all contentions of both the defendants are expressly kept open including the contention that total area of the

suit property admeasures only 18,897 square meters and not 22,402.58 square meters.

7 The Chamber Summons is accordingly disposed of.

8 Place Notice of Motion No. 1448 of 2013 on board on 5th August, 2019.

(B.P.COLABAWALLA, J.)