

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 540 OF 2017
AND
CHAMBER SUMMONS NO. 541 OF 2017
IN
SUIT NO. 2812 OF 2001

Jayesh H Pandya	...Plaintiff
<i>Versus</i>	
Sukanya Holdings Pvt Ltd & Ors	...Defendants

Mr Mangal Bhandari, i/b Jacinta D'silva, for the Plaintiff.
Mr Mayank Bagla, i/b Bagla & Associates, for the Applicants.
Mr Satish Shah, i/b DP Barretto, for Defendant No. 1.

CORAM: G.S. PATEL, J
DATED: 6th March 2019

PC:-

1. These two Chamber Summonses are moved by Defendant No. 11 and Defendant No. 4.

2. The applicants seek leave to join the Court Receiver appointed by this Court as the 2nd defendant in a suit they propose to file in the Small Causes Court against Defendant No.21, Urmila Gupta, the wife of Defendant No.10, Shiv Gupta. Nobody is

agreeable to this, including me. The relief more or less, or by necessary implication, seeks a declaration of some kind that the Mahesh Gupta HUF, Defendant No. 11, or Mahesh Gupta, Defendant No. 4, or both, are the landlords and owners of Flat Nos. 101 and 102, or have in themselves sufficient title to can maintain an eviction action against Urmila Gupta to recover possession of those two flats. Nobody has said this. I do not see how Mahesh Gupta or his HUF can get some sort of a partial decree to one or two particular flats in what is essentially a partnership dissolution action. In fact, the entire controversy is about the assets of the partnership firm and there is no way that I can tell that Mahesh Gupta or his HUF can in a Chamber Summons in such a suit get the sort of leave that amounts to acquiring independent title to this or that flat in any particular building. It makes no difference that I am told that the ejectment suit will be made subject to the outcome of this suit. That seems to me only a formula for even more complications and litigations.

3. It is always open to Defendant No.11 or Defendant No.4 to seek an order of this Court that Urmila Gupta be ordered to execute an agency agreement with the Court Receiver and that she be asked to pay monthly royalty and provide security. Such an application in this suit is possible though it will have to be heard and decided on its merits. All contentions are kept open on both sides. Indeed I do not encourage the Mahesh Gupta HUF to file one more Motion for this relief since the Plaintiff has already done so. It might be faster — and decidedly more economical — for Mahesh Gupta and his HUF to throw in their lot with the Plaintiff at least for the purposes of this enterprise.

4. The Chamber Summonses are dismissed with these observations.

(G. S. PATEL, J)