

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL APPELLATE JURISDICTION**

**SUIT NO. 2689 OF 1995
WITH
CHAMBER SUMMONS NO. 398 OF 2018
WITH
CHAMBER ORDER (L) NO. 153 OF 2019
IN
SUIT NO. 2689 OF 1995**

M/s. Sonal Constructions & Ors.	...	Plaintiffs
Versus		
Alexander George Tone & Ors.	...	Defendants

**WITH
SUIT NO. 386 OF 1997**

Alexander George Tone & Ors.	...	Plaintiffs
Versus		
M/s. Sonal Constructions & Ors.	...	Defendants

Mr. Akshay Bobade i/b Y.R. Shah for the Plaintiffs.
Mr. Sunil Patel i/b Ashwin Jaiswal for the Plaintiffs in CHOL/153/2019.
Mr. Sanjay Kothari a/w Sheeja John i/b M.P. Savla & Co. for Defendant
Nos.1, 4, 8 and 9 in S/2689/1995 and Plaintiffs in S/386/1997.

CORAM : R.I. CHAGLA, J.

DATED : 6th JUNE, 2019.

P.C. :

1 Heard the learned Counsel for the Applicants who are the Plaintiffs in the Suit. Chamber Summons is taken out for amendment by way of deletion of the name of Defendant No.6 and addition of the Respondents as Defendant Nos.6(a), 6(b) and 6(c) respectively to the Suit.

In the affidavit in support of the Chamber Summons it is stated that the Advocate of Plaintiff No.3 had received a letter dated 18.06.2014 stating therein that Defendant No.6 expired on 14.05.2013 and is survived by his wife and two children. Respondent No.1 is the wife of the deceased Defendant No.6 and Respondent Nos.2 and 3 are the son and daughter respectively of the deceased Defendant No.6. It is stated that Defendant No.6 has no other legal heirs and/or legal representatives. The Suit is for specific performance of agreement dated 04.11.1978 and that the cause of action survives and the Suit does not abate upon the death of Defendant No.6. It is seen from the affidavit in support of the Chamber Summons that the Chamber Summons has been filed within 90 days i.e. from the letter dated 18.06.2014 informing the Advocate of Plaintiff No.3 of the death of Defendant No.6 on 14.05.2013. There is no opposition to the Chamber Summons.

2 Amendment is allowed which shall be carried out within a period of one week from today. Accordingly, the Chamber Summons is made absolute in terms of prayer clauses (a) and (c).

3 Chamber Order to stand over to 13.06.2019.

(R.I. CHAGLA, J.)