

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

CHAMBER SUMMONS NO.888 OF 2019

IN

COMMERCIAL I.P.SUIT NO.342 OF 2016

Theobroma Foods Pvt. Ltd.)....Applicants/plaintiffs

V/s.

Karan Narula and Ors.)....Defendants

Ms.Preeti Shah a/w Mr.Manoj Menda for plaintiff/applicants.
Mr.Sharan Jagtiani a/w Mr.Vishal Narichania i/by Prakash Mahadik
for defendant nos.1 to 5.

CORAM : K.R.SHRIRAM,J

DATE : 13.8.2019

P.C.:-

1. Ms.Shah for applicant/plaintiff states that there is a Chamber summons no.888 of 2019 pending, which has to be heard before the Notice of Motion is heard. The said Chamber summons is not listed but by consent of the parties, is taken up for hearing. Mr.Jagtiani for defendant nos.1 to 5 leaves it to the court.

2. As far as defendant no.6 is concerned, Ms.Shah relies upon an affidavit of one Pradeep Swaminarayan affirmed on 7.8.2019 to submit that the packet sent to defendant no.6 came back undelivered

with the endorsement “party shifted”.

3. I have seen the affidavit in support. The chamber summons is for leave to amend the plaint to bring on record the development post filing the suit. Plaintiffs’ applications for registration of the mark “theo” in classes-35 & 43 were pending and the same have now been registered. That is the only amendment. I see no prejudice being caused to defendants if this amendment is allowed. Moreover, suit is at pre trial stage. Therefore, Chamber summons allowed in terms of prayer clause-(a) keeping open rights and contentions of defendants. Amendment to be carried out and amended plaint and amended Notice of Motion to be served on defendants within two weeks from today. Further written statement/additional reply to the Notice of Motion to be filed and copy served within two weeks of receiving the amended plaint. Notice of Motion be listed for hearing on 24.9.2019.

Chamber summons disposed accordingly.

(K.R.SHRIRAM,J)