

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 739 OF 2011**

Bluestone Properties Pvt Ltd	...Plaintiff
<i>Versus</i>	
Ramesh Kapadia & Ors	...Defendants

**WITH
CHAMBER SUMMONS NO. 1031 OF 2017
IN
SUIT NO. 739 OF 2011**

Mr Akshay Patil, *with Mr Mohan G Salien, i/b MGS Legl, for the Plaintiff.*
Ms Gulnar Mistry, *with Mr Salil Dabke, i/b Divekar & Company, for Applicant & Defendant No.1.*
Mr Jayraj Shinde, *i/b Mr Vijay B Dhingreja, for Defendant No.4.*

CORAM: G.S. PATEL, J
DATED: 9th January 2019

PC:-

1. This Chamber Summons is filed by the 1st Defendant at a very late stage. It seeks to amend the written statement after the trial is complete. In fact the suit is ready for final hearing.

2. The suit itself is for vacant possession of property at Khar (West), Mumbai and mesne profits. Ms Mistry for the Applicant/1st Defendant states that there have been some subsequent events. The bungalow in question has since been demolished and no longer exists. She also submits that apparently agreement between the Khar Milton Cooperative Housing Society and the Plaintiff for redevelopment of this property has been terminated. The second aspect is perhaps only a legal submission and I do not see what bearing it has on a claim for possession and mesne profits. As regards the status of the bungalow or the structure, I think the application to amend the Written Statement at this very late stage is unwarranted. It would undoubtedly delay the suit considerably. It is always permissible and possible for the Court to require one or the other of the parties to submit a signed statement or even an affidavit at the late stage for the limited purpose for having on record an accurate statement in regard to the present condition on site. This is all that needs to be done and it most certainly does not justify an amendment of the original pleadings. That has all kinds of implications, including reopening of the trial.

3. The clarification is I believe sufficient. Ms Mistry accordingly accepts this and seeks leave to withdraw the Chamber Summons. The Chamber Summons is dismissed as withdrawn. It is however made clear that the statements made in the Affidavit in Support of the Chamber Summons as to the factual aspects will be taken note of by the Court at the time of the final hearing. The contentions as regards the redevelopment agreement and their legal consequences are left open to the final hearing of the suit.

4. Ms Mistry clarifies that at the time when the Chamber Summons was filed the bungalow was still in existence but it has been demolished thereafter.
5. List the matter for hearing and final disposal on 17th January 2019.

(G. S. PATEL, J)