

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

CHAMBER SUMMONS.898 OF 2017

IN

COMM. SUIT NO.649 OF 2017

J.D.Infrabuild (India) Pvt. Ltd. & Anr.)....Plaintiff/Applicant

V/s.

Servant of India Society & Ors.)....Defendants

Mr.Nihar Ghag I/by L.H.Hingu and Co. for plaintiff/applicant.

Mr.Rachit Lakhmani I/by Vis Legis Law Practice for defendant no.1.

CORAM : K.R.SHRIRAM,J

DATE : 28.1.2019

P.C.:-

1. This Chamber summons is for leave to amend the plaint. The amendment application is to correct typographical error, elaborate existing pleadings, bring certain documents on record and also subsequent evidence and to comply with the requirements of commercial courts, commercial division, commercial Appellate Side Act 2015.

2. Mr.Lakhmani for defendant no.1 states that the documents which are being proposed to be introduced were in existence prior to

filing of the suit and there is no explanation given as to why these documents could not have been produced earlier with the plaint or with the earlier amendment application that was filed.

Notwithstanding this objection, counsel for defendant no.1 states that if court is inclined to grant prayer for leave to amend the plaint then plaintiff should be put to terms and additional written statement to be filed.

3. This is a pre-trial amendment and issues are also yet to be framed.

4. The submission of counsel for defendant no.1 is correct because the documents which are being introduced from the date appears to have been in existence prior to lodging of the plaint. In the affidavit in support, I do not see any explanation as to why these documents could not have been produced earlier. Since it is a pre-trial amendment, keeping open the rights and contentions of defendants, Chamber summons is allowed in terms of prayer clause-(a) which reads as under :-

“(a) that this Hon'ble Court be pleased to allow the Plaintiff to amend the Plaint as per the Schedule annexed to this Chamber Summons”

Item VIII in the Schedule annexed to the Chamber summons and bracketed in red ink is not allowed.

5. Certainly, plaintiff will have to be put to terms. Plaintiff to pay sum of Rs.15,000/- as costs to defendant nos.1 to 5 and this amount to be paid by way of cheque drawn in favour of Vis Legis Law Practice.

6. Plaint to be amended and served within two weeks from today. Further written statement to be filed within two weeks of receiving a copy of the plaint. Chamber summons accordingly disposed.

7. Suit be listed on 6.3.2019 for issues on which date parties to come with agreed draft issues and a separate list of issues on which they are unable to agree.

(K.R.SHRIRAM,J)