

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS No. 937 of 2018

IN

SUIT No. 549 of 2013

Atul Projects India Ltd. ..Applicant/Orig.Plff.

In the matter between :

Atul Projects India Ltd. ..Plaintiff.

Vs

Mrs. Merry Francis Vaithy & Ors ..Defendants.

And

Francis Dumin Gabre & Anr ..Respondents.

Mr. R.M. Vasudeo, Advocate for the Plaintiff.

Mr. S.M. Sharma for Defendant No.5.

Mr. Akshat Shah I/by R.M.G.Law Associates for
Defendant No.28 and 29.

CORAM : B. P. COLABAWALLA, J.

DATED :- 11TH JANUARY, 2019.

P.C. :

1 This Chamber Summons has been filed inter-alia
seeking the following reliefs:

"a)	This Court be pleased to set aside the abatement
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	caused on account of death of defendant No.7;
b)	This Court be pleased to condone the delay of four years and 316 days in moving the above Chamber Summons.
c)	This Court be pleased to allow to amend the plaint as per the Schedule attached to this Chamber Summons”.

2 This Chamber Summons has been necessitated by virtue of two grounds. Firstly, the name of the plaintiff has changed from “M/s Atul Projects India Limited” to “M/s Atul Projects India Private Limited”. Hence, the cause title is sought to be amended. Secondly, this Chamber Summons seeks to bring on record the heirs and legal representatives of the deceased defendant No.7 as Defendant No. 7(A) and 7 (B) as well as consequential amendments in relation thereto. Though defendant No. 7 expired on 28th September, 2013, the plaintiff was given notice of the death of Defendant No.7 only on 29th May, 2018. Thereafter, this Chamber Summons has been lodged on 10th August, 2018. This being the case, the plaintiff has clearly made out a case for granting the chamber summons in terms of prayer clause (a) to (c).

3 In these circumstances, the Chamber Summons is granted in terms of prayer clause (a) to (c). The amendment shall be carried out within a period of two weeks from today. The amended copy of the plaint shall be served on the Advocates for Defendants within a period of two weeks thereafter. The newly added defendants namely defendant No.7(A) and 7(B) shall be entitled to file a written statement within a period of eight weeks from the date of service of the amended plaint on the Advocate for the defendants.

4 The Chamber Summons is disposed of in the aforesaid terms. There shall be no order as to costs.

(B.P. COLABAWALLA, J.)