

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS No. 1300 of 2018

IN

SUIT No. 887 of 2014

Pallavi Vithal Otawkar and Ors ..Applicants/Proposed
Defendants.

In the matter between :-

Samir A. Thakker .. Plaintiff.

Vs

M/s Gadkari Builders &
Associates and Ors .. Defendants.

Mr. Shriniwas Bobde i/by Sandeep Maurya, Advocate for
the applicants.

Mr. Shyam Kapadia a/with Mr. Piyush Pande and Ms
Eram Quraishi i/by M/s Kartikeya & Associates for the
plaintiff in Suit No. 887/2014.

Mr. Amit S. Potnis @ Priyanka Rane i/by Tamhane & Co.
for the defendants.

CORAM : B. P. COLABAWALLA, J.

DATED :- 6th March, 2019.

P.C. :-

1. This Chamber Summons has been filed by the
applicants to be joined as proposed defendants in the present suit.
The applicants therefore seek that the plaintiff be directed to
amend the plaint, as per the Schedule annexed to the Chamber
Summons. The applicants claim to be the flat purchasers in the

said building and which was constructed by defendant No.1. It is the case of the applicants that if the relief that is sought for by the plaintiff is granted in its entirety, their rights would be affected and it is in these circumstances that they seek to be joined as party defendants.

2. Mr. Shyam Kapadia, the learned Counsel appearing on behalf of the plaintiff has fairly stated that without prejudice to the rights and contentions of the plaintiff, the plaintiff has no objection if the applicants are joined as party defendants.

3. The learned Advocate appearing on behalf of defendant No.1 opposed this Chamber Summons on the ground that these applicants have already filed the complaint before the Maharashtra Real Estate Regulatory Authority and therefore they need not be joined in the present suit.

4. After hearing the parties at some length, I find that then reliefs as sought for by the plaintiff are granted in their entirety, the applicants would have something to say in relation thereto. I therefore think that they are definitely proper parties, if

not necessary parties to the present suit. In these circumstances, the chamber summons is allowed in the prayer clause (a) which reads thus :-

“(a) that this Hon'ble Court be pleased to issue direction and order to the plaintiff to join the applicants-proposed defendants as party i.e. defendant Nos. 4 to 7, respectively in the plaint and further to carry out the required consequential amendments in the body of the plaint.”

5. The Amendment to be carried out within a period of three weeks from today and an amended copy of the plaint shall be served upon the defendants or their Advocates and the newly added defendants within a period of two weeks thereafter.

6. As far as prayer (b) is concerned, the same cannot be granted in this chamber summons and the newly added defendants are at liberty to take out appropriate proceedings for seeking such a relief and which shall be decided on its own merits and in accordance with law.

7. The Chamber Summons is accordingly disposed of. No order as to costs.

(B.P. COLABAWALLA, J.)