

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO.1309 OF 2018
IN
COMMERCIAL SUIT NO.1461 OF 2018**

IDBI Trusteeship Services Ltd.	..Plaintiff
Vs.	
Kamla Landmarc Property Leasing & Finance Pvt Ltd & Ors.	..Defendants
And	
Nishadh H. Merchant & Ors.	..Applicants

Mr. Rohan Kadam a/w Mr. Vatsal Parikh I/b Manilal Kher Ambalal & Co. for plaintiff
 Ms Minal Dedhia a/w Mr. Onkar Guptai/b Malvi Ranchoddas & Co. for Applicants in CHSCD/1309/2018
 Mr. Bipin Joshi for Defendant Nos.1 to 5
 Mr. Mayur Khandeparkar a/w Mr. Ativ Patel I/b AVP partners for Defendant Nos.6 & 7
 Mr. A. B. Malvonkar, Section Officer/ Representative of Court Receiver present

**CORAM : K.R.SHRIRAM, J.
DATE : 15th JANUARY, 2019**

P.C.:

1 This chamber summons is filed by 28 applicants to be joined as party defendants to the suit and to direct plaintiff to implead another 26 persons who are not applicants, as party defendants.

2 Though affidavit in reply opposing the chamber summons is filed, Mr. Kadam at the outset, states that applicant no.18 is already a defendant to the suit and he has no objection if the remaining applicants,

except applicant no.6, are joined as party defendants to the suit. Mr. Kadam states that 26 persons mentioned in Exhibit-A annexed to the affidavit in support of the chamber summons, will have to take out separate applications, because applicants have stated that they have been orally informed by those applicants mentioned in Exhibit-A, that they could also be joined as defendants.

3 So far as these 26 applicants are concerned, I agree with Mr. Kadam. It will be open to those 26 applicants to file a separate application to be joined as defendants to the suit and the court will consider that application independently on its merits, subject to the reply being filed by plaintiffs.

4 So far as applicant no.6 is concerned, Mr. Kadam states that there is no agreement with applicant no.6, but applicant no.6 is claiming on the basis of only the allotment letter which also has not been annexed. Mr. Kadam states that applicant no.6, if he want, can take out a separate application making out a case and plaintiffs will consider whether to consent.

5 Ms. Dedhia appearing for applicants relies upon paragraph 6 of the affidavit in reply, in which plaintiffs have stated that “..... in the best

interest of flat purchasers as well as the plaintiffs, if the flat purchasers come forward for completing the construction of project 2”

6 Mr. Kadam states that plaintiffs do not recognise applicant no.6 as a flat purchaser, because according to plaintiff, the letter of allotment allegedly issued in favour of applicant no.6, is invalid, bogus, nonest and void-ab-initio. In the reply, plaintiff has also reserved its right to challenge the entitlement of intervenor no.6.

7 In the circumstances, chamber summons allowed in terms of prayer clause (a) with clarification that all applicants, except applicant nos.6 and 18, are to be added as defendants to the suit. So far as applicant no.6 is concerned, applicant no.6 is at liberty to take out fresh application to make out a case as to why it should be joined as defendant to the suit.

8 Chamber summons accordingly disposed.

9 Plaintiffs to amend the cause title suitably.

10 Ms. Dedhia states that Malvi Ranchoddas and Company will file vakalatnama on behalf of newly added defendants and they also waive service of writ of summons.

11 All defendants including newly added defendants to file written statement on or before 12th February, 2019.

12 Stand over to 15th February, 2019, for directions.

(K.R. SHRIRAM, J.)