

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS No. 931 of 2018

IN

SUIT No. 43 of 2013.

Mahendra Popatlal Shah ..Applicant.

In the matter between :-

Mahendra Popatlal Shah ..Plaintiff.

Vs

Canara Bank & Ors ..Defendants.

Mr. Madhav Jamdar for the Applicant/Plaintiff.

Mr. S.M. Shettigar, Advocate for Defendant No. 2 to 4.

Ms. Archana Sanap i/by D.A. Das, Advocate for Defendant No.1.

CORAM : B. P. COLABAWALLA, J.

DATED :- 10TH JANUARY, 2019.

P.C. :

1 This chamber summons has been filed by the applicant (original plaintiff) seeking an amendment of the plaint as per the Schedule annexed to the chamber summons. By virtue of this amendment, the plaintiff merely wants to bring on record a letter that was addressed by the plaintiff to the Reserve Bank of India and the reply thereto. It is for this limited purpose that the amendment is sought.

2 The learned Advocates appearing for defendant No.1 as well as defendant No. 2 to 8 sought to contend that looking at the prayers in the suit, it was clear that the suit itself was not maintainable and hence order allowing the chamber summons would be an exercise in futility. They, therefore, submitted that the chamber summons ought to be dismissed.

3 I am unable to agree with the submissions made on behalf of the defendants. It is not in dispute that this chamber summons has been filed prior to the commencement of the trial. The amendments sought does not in any way alter the nature of the suit or the cause of action. This being the case, I do not think that the chamber summons cannot be allowed on the grounds agitated by the defendants. At this stage, I am not called upon to decide whether the suit is maintainable or otherwise. That will be decided at the appropriate stage and in an appropriate proceedings. This being the case, the chamber summons is allowed in terms of prayer clause (a).

4 The amendment shall be carried out within a period of two weeks from today and an amended copy of the plaint

shall be served upon all the defendants within a period of two weeks thereafter. The defendants shall be at liberty to file an additional written statement to the amended plaint, if so advised, within a period of 12 weeks from the date of service of the amended plaint.

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

(B.P. COLABAWALLA, J.)