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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.**

**CHAMBER SUMMONS NO. 39 OF 2019
IN
SUIT NO. 2335 OF 2012**

Fr. Frazer Mascarenhas	...Applicant/Proposed Defendant No.2
In the matter between	
Darryl M'Monte & Ors.	...Plaintiffs
vs	
Saint Peter's Church & Ors.	...Defendants

.....
Ms Mallika Taly I/b S Mahomedbhai for the Plaintiffs.
Mr Denzil D'Mello for the Applicant/ proposed Defendant No.2.
.....

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**CORAM : B. P. COLABAWALLA, J.
JULY 24, 2019.**

P.C. :

This Chamber Summons has been filed by the applicant (Fr. Frazer Mascarenhas) seeking a deletion of the name of defendant No.2 and substituting the applicant as defendant No.2 in the suit. Defendant No.1 is the Saint Peter's Church, Bandra, a public trust registered under the provisions of the Bombay Public Trusts Act, 1950. Defendant No.2 Errol Fernandes, is joined in his capacity as a sole trustee of the said trust.

2 According to Mr D'Mello, the learned advocate appearing

on behalf of the applicant, this Chamber Summons is necessitated in view of the fact that Mr Errol Fernandes (defendant No.2) is no longer the sole trustee of the 1st defendant trust and it is now the applicant who is the sole trustee thereof. It is in these circumstances that the reliefs in the present Chamber Summons are sought.

3 When this Chamber Summons had come up on the earlier occasion (25th June, 2019), the applicant / proposed defendant No.2 was to obtain the copies of Change Reports, if any. Today, Mr D'Mello has tendered a Judgment of the Deputy Charity Commissioner, Greater Mumbai Region, Mumbai in Change Report No. Dy.C.C./729/2011 under which the name of Fr. Gerard Rodricks S.J. was deleted as the sole trustee of the 1st defendant - trust and the name of Fr. Errold Fernernandes S.J. (defendant No.2) was added. Mr D'Mello also tendered the Change Report as well as the Judgment passed by the Deputy Charity Commissioner dated 18th August, 2016 in Change Report No. DYCC/3901/2016 under which the name of Fr. Errol Fernandes S.J. (defendant No.2) was deleted as the sole trustee of the 1st defendant - trust and the name of Fr. Frazer Mascarenhas S.J. (the applicant herein) was added with effect from 1st June, 2016. These documents have been provided to the learned advocates appearing on behalf of the plaintiffs today.

4 The learned advocate for the plaintiffs, after going through these documents and perusing the same has stated before me that in view of the aforesaid documents, the plaintiffs have no objection if the Chamber Summons is allowed and the applicant is substituted as defendant No.2 in place of Fr. Errol Fernandes S.J.

5 In view of the aforesaid fair stand taken by the advocates for the plaintiffs, the Chamber Summons is allowed in terms of prayer clauses (a) to (d) which reads thus -

- “(a) That the name of Defendant No.2 be deleted in the cause title to the plaint;
- (b) That the name of the present Parish Priest of St. Peters and Trustee of St. Peters Trust namely, Dr. Frazer Mascarenhas S.J. be added in place of defendant No.2 in the cause title to the plaint as per the schedule annexed hereto;
- (c) That the plaintiffs be directed to amend the plaint as per the schedule of amendments annexed hereto;
- (d) That the delay, if any, in filing the present Chamber Summons be condoned.”

6 The amendment to the plaint shall be carried out by the

plaintiffs within a period of two weeks from today. Re-verification is dispensed with. Once the plaint is amended, the plaintiffs shall serve a copy of the amended plaint on all the defendants within a period of two weeks thereafter.

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

(B.P.COLABAWALLA, J.)