

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12051 OF 2017

M/s.Mafatlal Fine Spg. Mfg. Co. Ltd. & Anr. ..Petitioners
Vs
Manek Gajanan Koli & Ors. ..Respondents

Mr.PS. Dani, Senior Counsel a/w Mr.D.V. Deokar i/b PK. Shroff & Co., for the Petitioner.

Mr.Deepak Chitnis i/b Chitnis & Chiprikar, for Respondent Nos.2 to 6.

CORAM : C.V. BHADANG, J.

**DATE : 25th NOVEMBER 2020
(Through Video Conference)**

P.C.

1. The challenge in this petition is to the order dated 02nd May 2017 passed by the learned City Civil Court at Mumbai in Chamber Summons No.142 of 2017 in Special Civil Suit No.8626 of 1998. By the impugned order the learned City Civil Court has allowed the Chamber Summons, thereby bringing the legal representatives of the original defendant No.4 on record.

2. The aforesaid suit is filed by the respondent Nos.1 and 2 herein in which the petitioners are defendant Nos.1 and 2. The

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respondent No.3 is original defendant No.3 while the respondent Nos.4 to 7 are the legal representatives of the deceased original defendant No.4.

3. I have heard Mr.Dani, the learned Senior Counsel for the petitioner and Mr.Chitnis the learned counsel for the respondent Nos.2 to 6. Perused record.

4. On hearing the learned counsel for the parties I do not find that any case for interference is made out. The Chamber Summons No.142 of 2017 was filed by respondent Nos.1 and 2 (Original plaintiff) for bringing the legal representatives of the deceased defendant Nos.2 to 4 on record. The City Civil Court had found and to my mind rightly so that the right to sue survives against the legal heirs of the defendant No.4. That apart it is difficult to see as to how a co-defendant can be aggrieved or can challenge an order permitting the legal representative of the deceased co-defendant on record. In that view of the matter, no case for interference is made out. The petition is accordingly dismissed, with no order as to costs.

C.V. BHADANG, J.