

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 879 OF 2019

IN

SUIT NO. 2038 OF 2000

Zina Margaret Fernandes

...Applicant/Orig.Plaintiff

In the matter between :-

Zina Margaret Fernandes

.. Plaintiff

Vs.

Mr. Gerard D'mello

.. Defendants

And

Victor Manuel Pereira

.. Respondent

[Proposed Defendant

Nos.21(a)]

Adv.Brenelle Cardoz i/b Adv.Deepak J. Lulia for applicant/org.
Plaintiff.

CORAM : N.J. JAMADAR, J.

DATE : 28th JANUARY 2020

P.C.

1. Heard the learned counsel for the plaintiff.
2. The learned counsel for the plaintiff submits that the plaintiff has served the defendants with the chamber summons. The learned counsel undertakes to file affidavit of service during the course of the day.
3. This chamber summons is taken out to bring the legal heirs of the deceased defendant No.21-Mrs.Olga Virgin Pereira, who died on 10th March 2015. The plaintiff has also sought condonation of delay in

seeking setting aside abatement of the suit as against defendant No.21 and bringing the legal representatives of deceased defendant No.21. The application is supported by the affidavit and a copy of the death certificate of defendant No.21-Mrs.Olga Virgin Pereira.

4. For the reasons assigned in the affidavit in support of the chamber summons and to advance the cause of justice, the delay in seeking setting aside the abatement of the suit as against defendant No.21 is condoned. The abatement of the suit as against defendant No.21 is set aside. The plaintiff is permitted to bring the legal representatives of the deceased defendant No.21 on record. The plaintiff is permitted to amend the cause-title of the plaint so as to implead the legal representative-Mr.Victor Manuel Pereira as defendant No.21A. Necessary amendment be carried out within a period of four weeks. The writ of summons be issued to defendant No.21A, returnable within eight weeks.

5. The plaintiff shall serve all the defendants with a copy of the amended plaint within the said period.

6. The chamber summons stands disposed of.

7. The suit be listed on 24th March 2020.

[N.J. JAMADAR, J.]