

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

INTERIM APPLICATION NO.356 OF 2022

IN

SUIT NO.1027 OF 2019

**PRIYA
RAJESH
SOPARKAR**

Mahalaxmi Rope Works Limited and ors. ... Applicants/Plaintiffs

V/s.

Vrushali Sachin Bamane and ors. ... Respondents

Digitally signed
by PRIYA RAJESH
SOPARKAR

Date: 2022.10.13
11:48:19 +0530

Mr.Mehul Shah alongwith Mr.Sandeep Jalan, Advocates for the
Applicants/Plaintiffs.

Ms.S.M.Vengurlekar, Assistant Section Officer, Court Receiver's office present.

CORAM : R.I.CHAGLA, J.

DATE : 12th OCTOBER, 2022.

ORDER :

1. Heard the learned counsel for the applicants/original plaintiffs.

2. By this interim application the applicants are seeking permission to replace and substitute the name and address of defendant No.9 by the correct name and address in the cause-title of the plaint and notice of motion No.1925 of 2019 in terms of the schedule annexed at Ex.A to the interim application.

3. The applicants have stated that when service of the true copies of the plaint and notice of motion No.1925 of 2019 and the affidavit-in-support thereof was attempted on 9th September, 2019, original defendant No.9 was not available and defendant No.10 accepted service thereof and declined to receive the same on behalf of defendant No.9.

4. Representative of the applicants/plaintiffs was informed by defendant No.10 that defendant No.9 was neither his wife nor daughter. During inquiries made, documents of the criminal proceedings were verified and upon which it came to the knowledge of the applicants that defendant No.9 is the wife of Mr.Pradeep Desai and not of defendant No.10. Mr.Pradeep Desai is the brother of defendant No.10. Accordingly, the correct name of defendant No.9 is "Priyanka Pradeep Desai" whose address is mentioned in the schedule of amendment and requires to be corrected. However, in the meantime, the writ of summons issued earlier was already lodged with the office of Sheriff of Mumbai. The applicants have stated that at the time of institution of the suit defendant No.9 was wrongly stated as "Priyanka Deepak Desai" instead of "Priyanka Pradeep Desai" as address of defendant No.10 was stated to be address of defendant No.9 which needs to be rectified. This error was notified first time on 19th November, 2019, however, there was delay in verifying the criminal proceedings and only upon which the present interim application has been prepared.

5. The Covid-19 pandemic lock-down as well as the ill health of the Director of the Plaintiff No.1 has been relied upon by the applicants /plaintiffs for the delay in preferring the interim application.

6. Having considered the interim application as well as the schedule of

amendment at Ex.A to the interim application which has sought amendment in the plaint and notice of motion No.1925 of 2019 for correcting the name of defendant No.9 as well as the address, the relief sought for in the interim application requires to be granted. It is also noted that the defendants have been served and an affidavit of service dated 15th February, 2022 has been filed. Hence, the following relief is passed:

- (i) The applicants/plaintiffs are permitted to amend the plaint and notice of motion No.1925 of 2019 in terms of the schedule annexed at Ex.A to the interim application.
- (ii) The amendment shall be carried out within a period of two weeks from today.
- (iii) Reverification is dispensed with.
- (iv) Interim application is disposed of in above terms.

[R.I. CHAGLA J.]

.....