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

**CHAMBER SUMMONS NO. 416 OF 2017
IN
SUIT NO. 716 OF 2008**

Ebrahim Hassanali Karim and Ors.	Applicants (Orig. Plaintiff Nos.2, .. 3A,3B & 3C & 4)
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IN THE MATTER BETWEEN

Fatehali Hassanali Karim and Ors.	.. Plaintiffs
Versus	
Gulamhussein Abdulaziz Karim and Ors.	.. Defendants

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- Mr. A.R. Pai a/w. Mr. Akshay R. Pai, Atharva Sane i/by Bina R. Pai for Plaintiffs.
 - Mr. Faisal Sayyed i/by M.K. Ambalal & Co. for Defendant Nos.5 to 7.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 20, 2023.

P.C.:

- 1.** Heard Mr. Pai, learned Advocate for Plaintiffs and Mr. Sayyed, learned Advocate for Defendant Nos.5 to 7.
- 2.** This Chamber Summons has been filed for bringing the legal heirs of deceased Plaintiff No.1 on record. Plaintiff No.1 has expired on 27.12.2016.
- 3.** The only objection raised by the Defendants is that the impleadment of the legal heirs of deceased Plaintiff No.1 is according

to the Will left by Plaintiff No.1 and the said Will is not probated.

4. Mr. Sayyed, learned Advocate for Defendant Nos.5 to 7 would submit that unless and until the probate of the said Will is obtained in accordance with law the amendment ought not to be allowed. However he would fairly submit that if the issue of the probate being the prime requirement is kept open, there would be no objection for bringing the legal heirs of deceased Plaintiff No.1 on record. I agree with the submissions of Mr. Sayyed.

5. Mr. Pai would submit that the legal heirs of deceased Plaintiff No.1 are infact already on record as Plaintiffs. In that view of the matter, only deletion is required to be done and therefore he would submit that only consequential amendment that needs to be brought on record is the fact about the Will. Subject to the above, amendment as per schedule of the Chamber Summons stands allowed. Amendment is permitted to be carried out within a period of two weeks from today. Re-verification stands dispensed with. Copy of the amended suit plaint be served on the other side.

6. Chamber Summons No.146 of 2017 stands allowed in the above terms.

7. Needless to state that the Defendants shall be entitled to file their additional affidavit-in-reply after the service of the amended suit plaint in accordance with law.

[MILIND N. JADHAV, J.]

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