

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

**INTERIM APPLICATION NO. 2034 OF 2020
IN
SUIT NO. 68 OF 2016**

Naraindas Parmanand
Sanatorium Trust

..Applicant/Plaintiff

VS.

Aakar Enterprises
and 8 Ors.

..Respondents/Defendants

Adv. Vyom Shah a/w Mr. Jesse Cornelious i/b Lexicon Law
Partners for the Applicant/Plaintiff.

Adv. Jehaan Mehta a/w Adv. Yazad Udwadia a/w Adv. Ruchi
Gandhi i/b D.M. Legal Associates for the Defendant Nos. 1 to
5.

Adv. Vijay Kurle a/w C. Acharya a/w Sankit Shah for
Defendant No. 6.

CORAM : R.I. CHAGLA, J

DATED : 13 MARCH 2023

P.C. :

1. By this Interim Application, the Applicant/Original
Plaintiff is seeking permission to amend the cause title of
the Suit by adding proposed Defendant Nos. 10 and 11 as
Party/Defendant as well as carrying out the schedule of
amendments to the Plaint annexed to the Interim
Application.

2. The Applicant/Original Plaintiff has stated that the suit property is being dealt with by Defendant Nos. 1 to 5 by creating mortgages in favour of the proposed Defendant Nos. 10 and 11 which are subsequent to the filing of the Suit. These are in relation to the financial facilities which are being availed of by Defendant Nos. 1 to 5 from the proposed Defendant No. 10. Further, the proposed Defendant No. 11 is sought to be joined, in view of what has been averred to in sub-paragraph (bb) of paragraph no. 4 of the Interim Application wherein it is stated that Defendant No. 5 has entered into and executed an Understanding/Term Sheet dated 04/08/2013 with proposed Defendant No. 11 to jointly develop the suit property with a contribution of Rs. 63,50,00,000/- (in words Sixty Three Crore Fifty Lakh) each.

3. Accordingly, the applicant has submitted that the proposed Defendant Nos. 10 and 11 are claiming to have interest in the suit property as averred to in paragraph nos. 5 and 6 of the Interim Application. Accordingly, they have sought to be joined as Defendants.

4. The learned counsel appearing for Defendant Nos. 1 to 5 has no objection to the pre-trial amendment being allowed

subject to the rights and contentions of Defendant Nos. 1 to 5 being kept open to deal with the same upon the amendment being carried out.

5. The learned counsel appearing for Respondent No. 6 states that an Interim Application has been taken out for the transposition of Respondent No. 6 as Plaintiff. The Interim Application has not been listed today. Accordingly, list the Interim Application (L) NO. 2557 of 2023 on 20/03/2023.

6. Having considered the averments in the Interim Application, it does appear that the proposed Defendant Nos. 10 and 11 are necessary parties to the above Suit. This is borne out from the documents which have been annexed to the Interim Application as well as the fact that Defendant Nos. 1 to 5 have had allegedly dealings with the proposed Defendant Nos. 10 and 11 in the suit property either by way of mortgage allegedly created and/or alleged joint development agreement entered into by Defendant Nos. 1 to 5 with the proposed Defendant No. 11. Accordingly, the amendment sought for is being allowed subject to the rights and contentions of the Defendant Nos. 1 to 5 to deal with the amended plaint as and when the amendment is carried

out being kept open. Hence, the following order.

ORDER

(a) The Applicants/Original Plaintiffs are permitted to carry out the amendment of the plaint in accordance with the schedule annexed to the Interim Application, thereby adding Respondent Nos. 10 and 11 herein as Defendants Nos. 10 and 11 to the Suit as well as consequential amendments.

(b) The amendments shall be carried out by the Applicants/Original Plaintiffs within a period of one week from the date of this order.

(c) The Interim Application is disposed of.

[R.I. CHAGLA J.]