

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION**

**CHAMBER SUMMONS NO. 300 OF 2019
IN
MISCELLANEOUS PETITION NO. 15 OF 1986
IN
TESTAMENTARY PETITION NO. 481 OF 1982**

Ashok Gupta ... Applicant

In the matter between :

Ashok Gupta & Ors. ... Petitioners

Versus

Rohini, d/o Sita Devi & Ors. ... Defendants

**WITH
INTERIM APPLICATION (L) NO. 10100 OF 2024
(NOT ON BOARD. TAKEN ON BOARD.)
IN
MISCELLANEOUS PETITION NO. 15 OF 1986
WITH
INTERIM APPLICATION (L) NO. 30383 OF 2023
WITH
CHAMBER SUMMONS NO. 1 OF 2020
IN
SUIT NO. 2332 OF 1985**

Mr. Karan Bhosale a/w Neha Bhosale, Anuja Divadkar and Laveena Tejwani i/by NDB Law for the Applicant in IAL/30383/2023 and for Petitioners in MP/15/1986.

Adv. K. G. Munshi, Nilesh Modi and B. N. Jadhav i/by Rustamji & Ginwala for Defendant Nos.2 and 3 in MPT/15/1986.

Mr. Utsav Anil Dalal for Defendant Nos.4 to 8 in MPT/15/1986 and for Applicant in IAL/10100/2024.

CORAM: MANISH PITALE, J.

DATE : 17th APRIL 2024

P.C. :

. By these chamber summons, the applicant (original petitioner) seeks permission to carry out amendments in terms of schedule 'A' to the chamber summons. Effectively, the applicant is seeking deletion of respondent-Mahesh Chand Gupta from the array of parties in the miscellaneous petition and for carrying out consequential amendments in respect of deletion of the said name.

2. There is no appearance on behalf of the said Mahesh Chand Gupta today, although the name of an advocate on record is reflected in the cause list.

3. It is relevant to note that by a detailed order dated 6th March 2024, this Court had allowed a Chamber Summons bearing No.1 of 2020, praying for identical reliefs filed in Suit No. 2332 of 1985. After taking into consideration the rival submissions, particularly contentions raised on behalf of the said Mahesh Chand Gupta, this Court granted permission to the applicant/plaintiff therein to carry out amendments to delete the name of the said Mahesh Chand Gupta, as a defendant in Suit No. 2332 of 1985.

4. In the said order dated 6th March 2024, listing of the present chamber summons is also recorded. It appears that while making submissions in respect of Chamber Summons No.1 of 2020 in Suit No. 2332 of 1985, the counsel for the parties inadvertently did not bring to the notice of this Court that identical issue arises in

the present chamber summons pending in Miscellaneous Petition No.15 of 1986.

5. This aspect is pointed out by the learned counsel appearing for the applicant in the present chamber summons. This Court has perused the material on record and it is found that the issue arising in the present chamber summons is identical to the one that was decided after comprehensively hearing the parties on 6th March 2024.

6. The learned counsel for the applicant in the present chamber summons has raised identical contentions. Therefore, this Court is inclined to allow the present chamber summons. Accordingly, the chamber summons are allowed in terms of prayer clause (a). The applicant is permitted to carry out amendments, as per schedule A annexed to the chamber summons.

7. Amendments be carried out within three weeks from today. Re-verification is dispensed with.

Interim Application (L) No. 10100 of 2024 in Miscellaneous Petition No. 15 of 1986.

(Not on board. Taken on board).

8. In order dated 19th March 2024, this Court had directed that apart from the listing pending chamber summons, all pending applications should also be listed. It appears that this interim application could not be listed today for consideration. Hence, it is taken on board.

9. The learned counsel appearing for the applicants i.e. respondent Nos. 4 to 8 in Miscellaneous Petition No. 15 of 1986, submits that by an earlier order dated 6th February 2024, this Court had allowed deletion of the very same parties as defendant Nos. 4 to 8 in Suit No. 2332 of 1985. Perusal of the said order shows that the plaintiff therein, who is the petitioner in the present miscellaneous petition, did not have any objection to the deletion of the said parties.

10. Today, when the instant application is taken on board for consideration, the learned counsel appearing for the petitioner, on instructions, submits that the petitioner has no objection for deleting respondent Nos. 4 to 8 from the array of parties in the miscellaneous petition.

11. In view of the above, the application is allowed and the applicants i.e. respondent No.4 to 8 are deleted from the array of parties in the miscellaneous petition. The petitioner shall carry out consequential amendments within three weeks from today. Re-verification is dispensed with.

12. List for further consideration/directions on 14th June 2024.

MANISH PITALE, J.