

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

SUIT NO.64 OF 1993
IN
PETITION NO.301 OF 1992

Laxmikant S. Mantri (since deceased) ... Plaintiff
Vs.
Nandkumar Pandurang Mantri and others ... Defendants

WITH
CHAMBER SUMMONS NO.3 OF 2020
IN
SUIT NO.64 OF 1993

Ms. Avni Bhanushali a/w. Ms. Akshata Pawar for Plaintiff.

CORAM : MANISH PITALE, J.
DATE : FEBRUARY 23, 2024

P.C. :

. This suit of the year 1993, arising from a testamentary petition for grant of probate filed as far back as in the year 1992, is listed on specific directions given by this Court to list such old pending matters.

2. Today when the suit is called out for hearing, learned counsel appearing for the plaintiff informs this Court that chamber summons filed in the year 2020 for bringing on record legal representatives of petitioner No.2 are pending.

3. Attention of this Court is invited to an affidavit of service dated 21.08.2019 filed on behalf of the applicant (plaintiff). The said affidavit states that when attempt was made to serve a copy of the chamber summons on the respondents (caveators / defendants), the door was locked. Thereafter, the chamber summons were sent by the speed post A.D., but the packets were returned with the remark 'unclaimed'.

4. The original probate petition was filed by Laxmikant Mantri. In the light of caveat being filed in the petition, it was converted into a suit. During the pendency of the suit, Laxmikant Mantri expired and hence, his legal heirs were brought on record. Thereafter, petitioner No.2 i.e. one of the legal heirs of the original petitioner also expired on 13.02.2019, as a consequence of which, the present chamber summons had to be filed.

5. Considering the material on record, particularly in the light of the fact that the suit is pending since the year 1993 and no orders have been passed in the chamber summons from the year 2020, which concerns only the aspect of bringing on record legal representatives of the petitioner No.2, this Court is inclined to allow the chamber summons.

6. The chamber summons are allowed in terms of the prayers made therein. Accordingly, the applicants are granted time of two weeks to carry out the necessary amendments. Re-verification is dispensed with.

7. It is a sad state of affairs that this proceeding is pending from the year 1992, having been converted into a testamentary suit in the year 1993. Even the issues have not been framed in the present suit, indicating the enthusiasm or the complete lack of it shown by the plaintiffs in pursuing the present suit.

8. Be that as it may, immediate steps need to be taken to ensure that the proceedings move forward.

9. In view of the above, list the suit for framing of issues on 14.03.2024, to be included in the supplementary list.

(MANISH PITALE, J.)