

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

**SUMMONS FOR JUDGMENT NO. 8 OF 2021
IN
COMMERCIAL SUMMARY SUIT NO. 12 OF 2021**

ASHWIN KHATER AND ANOTHER)...PLAINTIFFS

V/s.

AVINASH KHATER AND OTHERS)...DEFENDANTS

**WITH
INTERIM APPLICATION NO. 2720 OF 2025
IN
SUMMONS FOR JUDGMENT NO. 8 OF 2021**

Mr.Rashmin Khandekar a/w. Ms.Shaheda Madraswala and Ms.Rajvi Mehta i/by Vashi & Vashi, Advocate for the Plaintiffs.

Mr.Akash Agarwal i/by Mr.Aagam Doshi, Advocate for the Defendant no.1.

Mr.Navsher Kohli i/by Mr.Manoj Pandit, Advocate for the Defendant no.4.

CORAM : ABHAY AHUJA, J.

DATE : 15th SEPTEMBER 2025

PC. :

1. Pursuant to earlier orders of this Court, today when the matter is called out, Mr.Khandekar, learned Counsel appearing for the Plaintiffs, has submitted that his clients are in agreement with the submissions made on behalf of the Defendant no.4 that the subject matter of the

Suit is not a commercial one and therefore, Mr.Khandekar has submitted to this Court that the Commercial Summary Suit be re-numbered as a Summary Suit, as the same is only a matter of nomenclature. Mr.Khandekar has, in support, tendered across the bar, with a copy to the others, the following decisions :

- (i) Sudershan Prasad Bagaria and Another vs. Harshvardhan Khemka and Others¹
- (ii) J. P. Realities Pvt. Ltd and Another vs. Mahesh S/o.Chandrabhan Kingrani and Others²
- (iii) Chanda Kochhar - Chanda Kochhar vs. ICICI Bank Limited with ICICI Bank Limited - Chanda Kochhar vs. ICICI Bank Limited³
- (iv) Bharat Huddanna Shetty vs. Ahuja Properties & Developers and Others⁴
- (v) Chorus Call INC - Chorus Call INC vs. Gurmeetpal Singh Bindra and Others⁵

2. Mr.Kohli, learned Counsel for the Defendant no.4, has submitted that the issue is not just a matter of nomenclature but a matter of

1 APOT/63/2025 with RVWO/31/2024 and CS-COM/384/2024 and IA No.GA-COM/1/2025 decided on 26th March 2025

2 Civil Revision Application No.30 of 2023 a/w connected CRA decided on 19th March 2024

3 Interim Application No.1014/2022 in Commercial Suit No.43 of 2022 with Interim Application (L) No.10192 of 2022 in in Commercial Suit No.43 of 2022 decided on 12th April 2022

4 2021 SCC Online Bom 13984

5 Interim Application (L) No.28191 of 2023 in Suit (L) No.28190 of 2023 decided on 19.10.2023

return of plaint under Order VII Rule 10 of the Code of Civil Procedure, 1908 (“CPC”) in respect of which this Court has *suo moto* power to consider without any application having been filed. Mr.Kohli has relied upon the following decision in support of his contentions :

(i) Aj Organics Private Limited and Others⁶

3. Mr.Akash Agarwal, learned Counsel appearing for the Defendant no.1, submits that he is led by Mr.Jumani, who is not available today and this Court may suitably adjourn the matter.

4. Accordingly, for Mr.Jumani to address this Court on the issues of nomenclature v/s. jurisdiction, list on **1st October 2025** as **Part heard**.

(ABHAY AHUJA, J.)

⁶ 2025 SCC Online Bom 640