

MHCC010021332023



IN THE BOMBAY CITY CIVIL COURT AT BOMBAY

CHAMBER SUMMONS NO.370 OF 2023

IN

S.C.SUIT NO. 2806 OF 2018

Shri Babu Laxman Gaikwad & Anr.

...Plaintiffs.

Versus

Shri Basappa Fakira Gaikwad & Ors.

...Defendants.

Appearance:

Adv. Mr. R.A.Yadav for the Plaintiffs.

Adv. Mr. Holamagi for Defendants.

CORAM : SMT. A.K.MANDAVGADE
AD-HOC JUDGE, (C.R.NO.62)
DATE : 28.07.2026

ORAL ORDER

(Dictated in open Court)

The Chamber summons is filed by the plaintiffs seeking the relief to grant permission to carry out amendment in the plaint and notice of motion.

2. As per contention of the plaintiffs during pendency of the suit the defendants committed breaches and violation. New developments are required to be brought on record. Certain documents are fabricated by the defendants during pendency of the suit. Hence

those are subsequent events. The plaintiffs have prayed for addition of Room No.66A in the place of Room No.66 in suit and notice of motion in the address column of defendants No.1 and 2. They have also prayed for insertion of paragraph no.(10A) to (10E) as well as to add paragraph no.(13A) and (13B) and to add prayer clause (b1) to (b3). The plaintiffs have also prayed for amendment in paragraph no.19 by seeking permission to delete the word 'case' and to insert the word 'court' in line no.2.

3. As per reply affidavit Exh.20 the defendants have strongly objected to chamber summons. As per their contention the suit is filed with ulterior motive. The suit itself is not tenable. The plaintiffs have filed various documents on record with intent to cause delay. The plaintiffs have filed false complaints with the police. Inquiry was conducted by the Rationing Officer and the complaint of the plaintiffs was rejected. The FIR has no relation with the suit. By filing this chamber summons the plaintiffs are trying to fill up lacuna. Suit for simplicitor injunction is not tenable, hence notice of motion is already filed by the defendants. Defendant No.4 has obtained anticipatory bail, but plaintiffs have to prove their case on merit. The proposed amendment will change nature of the suit. Hence they have prayed for rejection of the chamber summons.

4. The plaintiffs have filed affidavit of rejoinder to the reply filed by defendants. As per contents of the rejoinder after dispossession of the plaintiff No.2 she had approached to the police, but NC was not accepted on 20/08/2020. Hence after two days written complaint was filed regarding illegal dispossession by the defendants. She has also contended regarding fixing camera and name plate. During Corona

pandemic the defendants have indulge in illegal activities. Those were brought to the notice of Police, BEST authority, Rationing authority and other authorities. However, cognizance was not taken. The documents are adduced on record. However, Rationing officer has not provided copy of documents to the plaintiffs despite directions. Written complaint is also filed by the plaintiffs regarding illegal repair work done by the defendants. Defendants have put iron latch and lock in front of Room No.66. Hence complaint was lodged with Colaba Police Station on 27/04/2023. The defendants have illegally and forcibly taken possession of ground floor by dispossessing plaintiff No.2 on 20/08/2020. On the basis of complaint lodged by the plaintiffs cases are registered by Colaba police regarding forgery and cheating. The inquiry conducted by Rationing officer is illegal. Rationing officer has not provided any documents despite directions. The Rationing officer is also liable for forgery and cheating, hence liable for prosecution. The plaintiffs have also contended regarding preparation of bogus ration card of Room No.66B and installation of electric meter on that basis.

5. Heard both the sides. Perused record.

6. Learned advocate for the plaintiffs argued that Notice of Motion No.4041/2018 was fixed for order. However due to COVID that order was not passed. Taking disadvantage of spread of coronavirus the defendants trespassed and put iron gate and camera. Infact Room No.66B is not at all in existence, however bogus ration card is prepared by defendant No.1. On the other hand, learned advocate for defendants argued that the plaintiffs are not concerned with the suit premises. The plaintiffs are trying to change subject matter of the suit which is not permissible. All the incidences mentioned in the proposed amendment

are subsequent to the filing of the suit. Hence new suit is required to be filed. The plaintiffs have not specifically mentioned date of trespass in chamber summons. Hence there is no cause of action. The amendment is not of formal nature and it will change nature of the suit. Hence he has prayed for rejection of chamber summons.

7. The plaintiffs have filed suit seeking relief of injunction simplicitor in respect of Hut No.66 i.e. to restrain the defendants from dispossessing them. The plaintiffs have also mentioned measurement of Hut No.66. By way of proposed amendment the plaintiffs want to mention Room No.66A wherever Room No.66 is mentioned. Further the plaintiffs want to add approximately 6 to 7 paragraphs mentioning them as subsequent events. Further the plaintiffs have also prayed for permission to amend/add three prayer clause. However the plaintiffs have nowhere mentioned when the cause of action arose for seeking the relief by way of proposed amendment. Further by way of amendment the plaintiffs are seeking relief regarding Room No.66B. Hence there is substance in the argument advanced on behalf of the defendants that the plaintiffs are trying to change subject matter of the suit. Further by way of proposed amendment the plaintiffs are seeking relief of possession, however the plaintiffs have not mentioned about valuation and court fees in the proposed amendment. Even if it is accepted that certain subsequent events have occurred then also the amendment which will change entire nature of the suit cannot be allowed. Further the plaintiffs are seeking relief of amendment in respect of proceedings taken place during pendency of the suit. However that being part of record there is no need of pleadings regarding them. Thus taking into consideration the proposed amendments except the amendment regarding mentioning 'court' at the place of 'case' in paragraph No.19

line No.2 the other proposed amendments are not of formal nature and they will definitely change nature of the suit. Hence those amendments cannot be allowed. Further by way of rejoinder the plaintiffs have mentioned that they were dispossessed on 20/08/2020 and the chamber summons is filed on 21/02/2023 that is after considerable delay. Further by way of rejoinder the plaintiffs have contended certain incidences occurred after filing chamber summons. Hence, I pass following order:-

ORDER

1. Chamber Summons No.370 of 2023 is partly allowed.
2. The plaintiffs are allowed to carry out amendment in paragraph No.19, Line No.2 by deleting word 'case' and inserting word 'court'.
3. The relief regarding other amendments is rejected.
4. Parties shall bear their own cost.
5. Accordingly, Chamber Summons is disposed of.



(Smt. A.K.Mandavgade)
Ad-hoc Judge
City Civil Court,
Gr. Mumbai.

Date : 28.07.2026

Pronounced on	: 28.07.2026
Directly dictated on PC	: 28.07.2026
Typed on	: 28.07.2026
Checked & Signed on	: 28.07.2026

<u>“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”</u>		
Upload Date	Upload Time	<u>Name of Stenographer</u> Mrs. Manisha S. Putta
28.07.2026	6.00 PM	
Name of the Judge (With C.R. No.)		HHJ Smt. A.K.Mandavgade (C.R.No. 62)
Date of Pronouncement of JUDGEMENT /ORDER		28.07.2026
JUDGEMENT /ORDER signed by P.O. on		28.07.2026
JUDGEMENT /ORDER uploaded on		28.07.2026