

IN THE BOMBAY CITY CIVIL COURT AT BOMBAY

CHAMBER SUMMONS NO. 2747 OF 2014

IN

SHORT CAUSE SUIT NO. 406 OF 2014

Kurla Malayalee Samajam **...Plaintiff**

Versus

- 1. M/s. Rajesh & Associates**
- 2. Mr. Rajesh Raghavendra Rao**
- 3. Premavathy Subramaniam**
- 4. Minojen Subramaniam**
- 5. Mukesh Subramaniam**
- 6. Mahesh Subramaniam**
- 7. M/s. S. Rajesh and Associates**
- 8. R.R. Puthran** **...Defendants**

Adv. Mr. Akshay Bobde h/f Adv. Jeetendra
Ramugade for plaintiff present.

Adv. Mr. Y. H. Vora h/f Adv. M. V. Holamagi
for Defendant nos. 2 and 7.

Adv. Ramesh Sawant for Defendant nos. 1,3,4 & 6.

Defendant no.5-Mr. Mukesh Subramaniam present.

Advocate Mr. Sachin Kadam h/f Adv. Mohan
Tekavde for respondent no. 1, 2 and 4 present.

Advocate Mr.D. L. Doshi for Defendant no.8.

**CORAM : HIS HONOUR JUDGE SHRI M. S. SHARMA
(C.R.NO.4)**

DATED : 16th December, 2014.

ORDER

1. This Chamber Summons is taken out by the plaintiff praying to allow amendment in Plaint, as per Schedule and also other proceeding including Plaint affidavit in its behalf.

2. The cause for taking out Chamber Summons as stated in affidavit in support is that, the plaintiff is a Trust and had authorised Shri Shivdasan Nair alongwith other members to affirm the Plaint and other proceedings and also to lead evidence which accordingly said Shri Shivdasan Nair had affirmed and said person had expired on 30.10.2014, in place of whom one P.K. Keshvan is appointed as New Vice President of the plaintiff to whom, now, authority is given to deal with the present suit and allied proceedings and in view of the same, it is necessary to insert name of P.K. Keshvan in the matter.

3. The reply was filed by advocate for defendant no. 2 only and resisted the claim of plaintiff on the ground that, there is no provision to allow such an amendment and that, the plaintiff did not join all the trustees as party.

4. Advocate for defendant no. 5 gave no objection to make the Chamber Summons absolute.

5. The only aspect to be considered is whether it is necessary to

allow the amendment in view of the fact that, the earlier person authorised by plaintiff to file the suit and to lead evidence has expired and now the plaintiff has appointed another Vice President and as per the claim of plaintiff name of new Vice President is required to be inserted.

6. Upon query learned advocate for plaintiff could not show any provision for amendment of such a nature. However, he submitted that, every time the authorized person either dies or is changed, said amendment will be required to be done in the Plaint. Said contention so made by learned advocate for plaintiff can not be accepted for the reason that, the suit is filed by the Trust and Order 22 of Code of Civil Procedure only provides for the course to be adopted in the event of death of any party to the suit. Admittedly, deceased Mr. Shivdasan Nair was not a party to the suit in his personal capacity and had filed the suit in capacity of a person duly authorised by the plaintiff. In view of said fact no such amendment as prayed in the Chamber Summons can be sought. There is no merit in the Chamber Summons and it deserves to be dismissed. Hence, following Order is passed :-

ORDER

Chamber Summons no. 2747 of 2014 is dismissed.

(M.S. Sharma)

Judge

City Civil & Sessions Court,
Gr. Bombay.

Date :- 16.12.2014.

Dictated on : 16.12.2014.

Transcribed on : 16.12.2014.

Signed on : 18.12.2014.