



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.73 OF 2019

IN

COMMERCIAL SUIT NO.299 OF 2016

Govind Properties Pvt. Ltd., MumbaiApplicant

In the matter between

Govind Properties Pvt. Ltd., MumbaiPlaintiff

V/s.

Sunshine Builder & Developers, Mumbai & Anr.Defendants

Mr. Abhishek Sawant, with Ms. Pinaz Kapadia, i/by M.S. Pradhan & Co., for
the Applicant-Original Plaintiff.

Mr. Shaikh, i/by ASD Associates, for Defendant No.1.

CORAM : A.K. MENON, J.

DATED : 4TH NOVEMBER, 2019.

P.C. :

1. By this chamber summons, the applicant-plaintiff seeks amendment in terms of Schedule-I. As far as item nos.1 and 2 of the proposed amendment are concerned, the learned counsel for defendant no.1 has no objection to the amendment being allowed. However as far as proposed changes set out in item nos.3 to 6 are concerned, he submits that it changes the cause of action in the plaint and therefore ought not be allowed.

2. I have heard learned counsel for the parties. Perused the affidavit-in-support and Schedule-I to the chamber summons. It is evident that items 3 and 4 in Schedule-I only seek to specify the case of the plaintiff that it is defendant no.1 who had paid the money, which was the amount in question remitted to the account of defendant no.1 instead of defendant no.2, as the plaint presently states. Item no.5 seeks to rely upon a certificate issued pursuant to deduction of income tax being "Form 16A" in respect of the very payments made to the credit of defendant no.1. As far as item no.6 is concerned, the property referred to defendant no.2 is proposed to be deleted by correctly referring the same to defendant no.1 in the notice of motion.

3. Having considered the proposed amendments, I am of the view that these amendments do not change the cause of action in the plaint and this chamber summons deserves to be allowed. Accordingly, I pass the following order :-

- (i) Chamber summons is made absolute in terms of prayer clauses (a) and (b). Amendment to be carried out within a period of two weeks from the date of uploading this order. Copy of the amended plaint to be served on the defendants forthwith thereafter.
- (ii) Additional written statement to the amended plaint, if any, to be filed within four weeks from the date of

service of the copy of the amended plaint. If the amended plaint is not served within a period of one week from the date of carrying out amendment, causing the defendant to seek extension of time, plaintiff shall be liable to pay costs to the defendants.

(iii) Chamber summons is disposed in the above terms.

(A.K. MENON, J.)