

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER ORDER NO. 91 OF 2019

IN

EXECUTION APPLICATION NO. 267 OF 2003

WITH

CHAMBER ORDER NO. 114 OF 2019

IN

CHAMBER SUMMONS NO. 1640 OF 2016

IN

EXECUTION APPLICATION NO. 267 OF 2003

Ila Rohit Sanghvi

...Applicant/
Plaintiff

Versus

Pankaj C Gandhi & Ors

...Defendants

And

Rajnikant C Khokhani & Ors

... Proposed
Respondents

**NO APPEARANCES GIVEN DESPITE REQUESTS AND A
NOTICE. NO APPLICATION FOR SPEAKING TO THE
MINUTES FOR NOTING APPEARANCES WILL BE
ENTERTAINED.**

CORAM: G.S. PATEL, J

DATED: 29th March 2019

PC:-

1. Not to be mentioned for speaking to the minutes to correct or enter appearances. The advocates appearing today failed to give appearances despite a specific notice, a well-established protocol and reminders from the Court Associate. No further indulgence will be shown to these Advocates.
2. There was originally one Defendant, Pankaj Gandhi. The summary suit was ultimately decreed in favour of the original sole Plaintiff, one Savitri Maniklal Sanghvi. The decree was put into execution. It seems that at some point Savitri Sanghvi's heirs were impleaded. Later, the heirs of some heirs were impleaded.
3. In execution there were obstructionist proceedings by a person related to Dr Pankaj Gandhi. There were/are also insolvency proceedings. SC Gupte J decided the obstructionist proceeding on 24th February 2016.
4. At present Defendants Nos. 1(a)(i), 1(a)(ii) and 1(a)(iii), namely Ila Rohit Sanghvi, Devang Rohit Sanghvi and Falguni Rohit Sanghvi seek to amend the execution application to implead three Respondents, Rajnikant Khokhani, Dhaval Khokhani and Rupal Khokhani as the heirs and legal representatives of the deceased Plaintiff No. 1(b), Bharati R Khokhani. The difficulty in their way is that the other Plaintiffs (heirs of the original sole Plaintiff, Savitri Sanghvi) are not coming forward and have not been attending to the matter. They have not responded to requests to execute a Vakalatnama.

5. Leaving aside any questions what is to be done in the insolvency proceedings, for that will be dealt with separately, obviously the decree is to be executed in favour of all the present Plaintiffs, all of whom are heirs of the original sole Plaintiff. In a situation like this there is no possibility of transposing any of the Plaintiffs as Defendants to the suit. What is necessary however so that there is no confusion is that all the other Plaintiffs from 1(c) to 1(h) will now be transposed as Respondents to the execution application and numbered accordingly. The three heirs of Bharti Khokhani will also be joined as Respondents to the execution application. It is however clarified that the decretal debt stands in favour of Plaintiffs Nos. 1(a)(i), 1(a)(ii) and 1(a)(iii) as also all the heirs of the original sole Plaintiff and the heirs of Plaintiff No. 1(b). The result of this transposition is not be construed as the decree surviving only to Plaintiffs Nos. 1(a)(i), 1(a)(ii) and 1(a)(iii). They are allowed to continue the execution in this fashion only as a matter of convenience and efficiency in this litigation.

6. Amendment to be carried out in two weeks.

7. The Chamber Order No. 91 of 2019 is withdrawn to Court and is disposed of in these terms.

(G. S. PATEL, J)