

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

INTERIM APPLICATION NO.2785 OF 2021

IN

SUIT NO.1159 OF 2006

Tata Industries Ltd. & Anr.

.. Applicants/Org. Plaintiffs

v/s.

Maharani Nirmalkumari V. Chauhan

& Ors.

.. Defendants/Respondents

Mr. Astad Randeria a/w. Ms. Parul Bhatia i/b. Mulla & Mulla for the plaintiffs.

Mr. Chetan R. Shah i/b. Rajesh L. Shethia for defendant nos.3 & 4.

Mr. Aditya Udeshi a/w Netaji Gawde, Rahul Sanghvi i/b. Sanjay Udeshi & Co. for defendant no.5.

CORAM : A. K. MENON, J.

DATED : 20TH DECEMBER, 2021.

P.C. :

1. IA seeks a direction to defendant nos.2, 3 and 4 to disclose on oath the date of demise of defendant no.1 and to provide copies of a death certificate and particulars as also the names of legal heirs, if any, other than defendant nos.2, 3 and 4 and for furnishing a copy of the Will. For such disclosure to be made, the applicant seeks leave to amend.

2. Respondent nos.3, 4 and 5 are represented. Respondent no.2 is not represented. The learned counsel for respondent nos.3, 4 and 5 confirms that respondent no.1 has expired. In view thereof, this IA is liable to be allowed. In view of non-compliance with order dated 29th July, 2016 by respondent nos.3 and 4, it will be appropriate that they be charged with costs of the present application. Accordingly, I pass the following order;

(i) IA is made absolute in terms of prayer clause (a) except the portion bracketed in red ink, which reads as follows;

“[and (iii) to furnish a copy of the Will and testament, if any, executed by the deceased Defendant No.1]”.

(ii) Disclosure to be made within two weeks.

(iii) Upon disclosure being made, leave is granted to amend in terms of prayer clause (b).

(iv) Respondent nos.3 and 4 shall pay costs of Rs.10,000/- to the applicant.

(v) IA is disposed in the above terms with liberty to apply and revive of the IA if there is no compliance.

At this stage, the learned counsel for respondent no.5 points out that respondent no.5 has filed a suit bearing

no.84 of 2007 in which respondent no.1, 1(a) and 2 to 4 in the present suit are defendant nos.1, 1(a) and 2 to 4 in the suit bearing no.84 of 2007. The plaintiffs in the present suit are impleaded as defendant nos.5 and 6 in that suit. In view of the demise of respondent no.1, in both the suits, learned counsel says that the IA (L) no.29315 of 2021 that he has filed may also be disposed in the above terms.

(vi) In view thereof, the separate order has been passed in suit no.84 of 2007 and IA(L) no.29315 of 2021.

(A. K. MENON, J.)