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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.14422 OF 2023

IN

ARBITRATION PETITION NO.137 OF 2022

Mrs Vandana Devanand Ghule

...Applicant /
Petitioner

Versus

Smita Dilip Ghule and Ors.

...Respondents

Ritvij Kale with Prajit S. Sahane i/b. Chaitanya B. Nikte for the
Applicant / Petitioner.

CORAM : R.I. CHAGLA J

DATE : 28TH NOVEMBER, 2023

ORDER :

1. By this Interim Application, the Applicant / Petitioner has sought permission to bring on record legal heirs of deceased Respondent No.2 as per schedule annexed to the Interim Application and add the legal heirs as Respondents in the present Petition. Further, relief is sought to condone the delay of 32 days in filing the Interim Application.

2. The Applicant has stated that the captioned Arbitration Petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 read with Arbitration and Conciliation (Amendment) Act, 2015 (“the said Act”). It is stated that after filing of the Arbitration Petition, the Respondent No.2 expired on 1st August, 2022. A copy of the death certificate of Respondent No.2 has been annexed at Exhibit A to the Interim Application.

3. The Applicant has referred to the legal heirs of Respondent No.2 which are mentioned in paragraph 4 of the Interim Application. The Applicant has given reasons for the delay in filing the present Interim Application and which are on account of the parties in the Arbitration Petition belonging to the same family and the Petitioner being busy in performing the necessary death rituals of Respondent No.2. Further, time was taken to procure the death certificate of deceased Respondent No.2 and to convey the same to the Advocate. It is mentioned that the delay in filing the present Interim Application is inadvertent and as such no loss or prejudice will be caused to the Respondents if the delay is condoned.

4. Having considered the averments in the Interim

Application I am satisfied that sufficient cause has been shown in paragraph 5 for the delay in filing the Interim Application which delay is of 32 days. The legal heirs of the deceased Respondent No.2 have been mentioned in paragraph 4 of the Interim Application. However, upon perusing the Interim Application, there is no schedule which is been annexed to the Interim Application, despite prayer clause (b) of the Interim Application referring to a schedule.

5. The Applicant shall carry out necessary amendment in the Interim Application by adding the schedule of legal heirs which are to be added as Respondents in the captioned Arbitration Petition. This amendment shall be carried out within a period of one week from today.

6. In view of the limited relief sought for in the present Interim Application and which is necessitated for the adjudication of the disputes and differences between the parties under Section 11 of the said Act, the relief sought for is granted. Hence the following order:-

(i) The delay of 32 days in filing the Interim Application is

condoned.

(ii) The Applicant is permitted to bring on record the legal heirs of the deceased Respondent No.2 as per schedule (to be annexed to the Interim Application) and which shall be carried out within a period of two weeks from the date of this Order.

(iii) The Interim Application is accordingly disposed of.

[R.I. CHAGLA J.]