

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.30505 OF 2022
WITH
INTERIM APPLICATION NO.388 OF 2023
IN
CIVIL REVISION APPLICATION NO.671 OF 2008

Rajendra Rasiklal Shah ...Applicant

IN THE MATTER BETWEEN

Dilip Madhavlal Shah ...Applicant

Versus

Tejkaur Shriram Juneja And Ors. ...Respondents

WITH
INTERIM APPLICATION NO.4729 OF 2023
IN
CIVIL REVISION APPLICATION NO.617 OF 2008

Manjulaben Dilip Shah And Ors. ...Applicants

IN THE MATTER BETWEEN

Dilip Madhavlal Shah ...Applicant

Versus

Tejkaur Shriram Juneja And Ors. ...Respondents

Ms. Panthi Desai i/by M. P. Vashi and Associates for the Applicant.

Mr. Ketan A. Chothani, a/w. Mr. Nishant Chothani, Ms. Gayatri Kapse
and Ms. Pradnya Pokale for the Respondents.

CORAM : N.R. BORKAR, J.

DATED : 6 SEPTEMBER 2023

PC. :

1. The applicant No.2 in Civil Revision Application No. 671 of 2008 has filed the Interim Application No.30505 of 2022 for restoration of the Civil Revision Application, which was dismissed on 22 November 2021 for want of prosecution.

2. One Dilip Shah was applicant No.1 in the said Civil Revision Application. The application for restoration, however, came to be filed without disclosing the fact that said Dilip Shah had expired much prior to filing of the restoration application, i.e., on 23 June 2017. The contesting respondent thus objected to restoration of Civil Revision Application at the instance of applicant No.2 only. In view of said objection, applicant No.1 has filed the application being Interim Application No. 388 of 2023 for bringing legal representatives of said Dilip Shah. The contesting respondent objected to the maintainability of said application on the ground that the consent of legal representatives is not obtained. The legal representatives of said Dilip Shah, thus filed Interim Application No. 4279 of 2023.

3. As regards Interim Application Nos.388 of 2023 and 4729 of 2023, there is a delay of more than five years and the only explanation for the said delay is that they were not aware about legal formalities. Even if this explanation is accepted, however, still the fact remains that no application was made for bringing legal representatives of the said

Dilip Shah at the time of filing of restoration application. On the contrary, the fact of death of said Dilip Shah was not even disclosed in the restoration application. Considering the overall facts and circumstances, the Interim Application Nos.388 of 2022 and 4729 of 2023 are rejected.

4. As regards the restoration of Civil Revision Application, for the reasons stated in the Interim Application No.30505 of 2022, the order passed by this Court dated 22 November 2021 is hereby recalled. The Civil Revision Application No. 671 of 2008 is restored to file. The applicant No.1 Dilip Shah, however, shall be deleted from the array of the parties.

5. Applicant No.2 is permitted to file application for adjournment before the Executing Court. If such application is filed, the learned Executing Court shall adjourn the execution proceedings after 6 October 2023.

6. List the Civil Revision Application No. 671 of 2008 for final hearing on 6 October 2023 at 2:30 p.m.

7. All the Interim Applications are disposed of in aforesaid terms.

(N.R.BORKAR, J.)