

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO.121 OF 2023
IN
COMMERCIAL SUMMARY SUIT NO.30 OF 2022**

Anchor Leasing Private Limited ... Applicant/Org. Plaintiff

In the matter between :

Anchor Leasing Private Limited ... Plaintiff

V/s.

Aloukik Builders and Developers & Ors. ... Defendants

Mr. Mikhail Behl, Ms. Vibha Joshi i/by Abhishek Adke for the Plaintiff.

Ms. Sampada S. Mahadik i/by Samarth Juris for Defendant Nos.3(a) to 3(c).

CORAM : ARIF S. DOCTOR, J.

DATE : 15TH FEBRUARY 2023

P.C. :

1. The present Interim Application has been filed to bring on record the legal heirs of Defendant No. 3 who has passed away on 25th December, 2015.

2. Learned Counsel appearing on behalf of the Applicant submits that the knowledge of the Defendant No. 3 passing away in 2015 became known only on the specific date on which Defendant No. 1 filed Affidavit in Reply and then Applicant now seeking impleadment of legal heirs of Defendant No. 3 to the arrayed Defendants as Defendant Nos. 3(a) to 3(c).

3. Today, learned Counsel appearing on behalf of the proposed Defendant opposes the Application on the ground that Defendant No. 3 was never a partner of the Defendant No. 1- Firm. She submits that the Defendant No. 3 in fact passed away in the year 2015. Therefore, she submits that the present amendment ought not to be allowed.

4. Per Contra, learned Counsel appearing on behalf of the Applicant submits that the deceased Defendant No. 3 was in fact a partner of the firm. The Plaintiff had been dealing with the deceased Defendant No. 3 on the basis that he was a partner of the Defendant No. 1-firm. In view of the matter he submits that on a fresh suit to be filed the Plaintiff would have arrayed the Defendant Nos. 3 (a) to 3(c) contest. He submits that all rights and contentions of Defendant No. 3 (a) to 3 (c) to contest their liability as the legal heirs of the Defendant shall be kept open and be decided in the suit.

5. In view, thereof, there is no impediment to allow the present Interim application by keeping open all the rights and contentions of Defendant No. 3 (a) to 3 (c).

6. Interim Application is therefore allowed in terms of clause (a) which reads as under:-

“a. That this Hon’ble Court be please to pass an order allowing the applicant to carry out Amendment, as enumerated, in Schedule I annexed with the Interim Application;

7. Amendment to be carried out within two weeks from the date on which the order uploaded.
8. Interim Application is accordingly disposed of.

(ARIF S. DOCTOR, J.)