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

INTERIM APPLICATION NO.4349 OF 2022

IN

EXECUTION APPLICATION NO.304 OF 2016

Perveen Hosi Chama & Ors.

...Applicant /
Petitioner

Versus

Putlan Faramrose Sorabji Shroff (Since
deceased) & Ors.

...Respondents

Ms. Frahnak D. Contractor for the Applicant.

CORAM : R.I. CHAGLA J

DATE : 14 February 2023

ORDER :

1. By this Interim Application, the Applicants are seeking condonation of delay of eighteen months in execution of the warrant and for extension of time for Execution of the Warrant. Further, relief is sought for deletion of the name of Plaintiff No.1 – Ms. Khursheed K. Wadia as shown in the schedule annexed to the Interim Application.

2. The Applicants have stated that the original Plaintiff has instituted a suit against the Defendants for usurping the Suit premises illegally. The Suit was decreed in favour of original Plaintiff vide order dated 17th October, 2003 and mesne profits were payable to the original Plaintiff upto 14th December, 2014 which worked out to Rs. 97,93,433/-. The original Plaintiff expired on 7th February, 2013 after which the Application was taken out and the original Plaintiff was deleted and Plaintiff Nos.1 to 4 were brought in her place.

3. The Plaintiff No.1 – Khursheed K. Wadia thereafter expired on 21st December, 2018. A copy of the death certificate is annexed to the Interim Application. Accordingly, the name of Khursheed K. Wadia as Plaintiff No.1 is sought to be deleted from the cause title of the Execution Application.

4. Further, relief which is sought is for condonation of delay in Execution of the Warrant. The delay for execution of warrant is on account of what is stated in paragraph Nos.6 to 8 of the Interim Application. This is on account of Covid 19 pandemic and during that period activities all around had come to a stand still. When the

service to the Defendant No.1 was effected, it was learnt that the Defendant had changed his residence and accordingly, the execution of the warrant was extended upto 16th September, 2020. In view of the pandemic, the Applicants were not able to execute the Warrant as directed. Accordingly, the condonation of delay has been sought.

5. Having considered the averments in the Interim Application as well as taking note of the amendment being sought by the Applicants which is for deletion of the name of Plaintiff No.1 who had expired on 21st December, 2018 as well as for condonation of delay in execution of the warrant, which delay has been satisfactorily explained in paragraphs 6 to 8 of the Interim Application, the relief sought for in the Interim Application is granted. Hence the following order:-

(i) The delay of eighteen months in execution of the warrant is condoned.

(ii) Extension of time for execution of the warrant is granted by a period of six weeks from the date of this Order.

(iii) Amendment sought for in the prayer Clause (b) of the Execution Application for deletion of the name of Plaintiff No.1 Khursheed K. Wadia as per schedule annexed to the Interim Application is allowed.

(iv) Amendment shall be carried out within a period of two weeks from the date of this Order.

(v) The Interim Application is accordingly disposed of.

[R.I. CHAGLA J.]