

*Sharayu Khot.*

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

INTERIM APPLICATION NO. 278 OF 2023

IN

COMMERCIAL EXECUTION APPLICATION NO. 266 OF 2020

The Cosmos Co-operative Bank Ltd.

...Applicant/  
Claimant

*Versus*

Krishna Structural Steel (India) Ltd. & Ors.

...Respondents

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Mr. Jayant Gaikwad for the Applicant.

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CORAM : R.I. CHAGLA J

DATE : 9 February 2023

ORDER :

1. By this Interim Application, the Applicant is seeking permission to amend column J'(a)(g) of the Execution Application and warrant of sale of immovable property page 5 line 3 as per schedule I annexed to the Interim Application and consequential amendments in the Commercial Execution Application. Condonation of delay in filing of Interim Application has also sought.

2. The proposed amendment is in view of the Respondent Nos. 9 and 10 each having of 50% share in Flat No. 61, 9th Floor, Sagar Mahal Co-operative Housing Society Ltd., Opp. Gopi Birla School, C.S. No. 295, 65, Walkeshwar Road, Mumbai 400 006 admeasuring 3085 sq.ft. super built up area cadastral Survey No. 295, Malabar Hill and Cumbala Hill Division. This is apparent from the share certificate issued by the Sagar Mahal Co-operative Housing Society Ltd., which shows the aforementioned Flat jointly owned by the Respondent Nos. 9 and 10. This is further borne out by the letter dated 24th July 2012 issued by the Manager of Cosmos Bank to the Secretary of Sagar Mahal Co-operative Housing Society Ltd., which mentions that the Respondent Nos. 9 and 10 have mortgaged the aforementioned Flat No. 61 with the bank. This has been confirmed by the Secretary of Sagar Mahal Co-operative Housing Society Ltd. vide letter dated 21st August 2012.

3. Learned Counsel appearing for the Applicant states that inadvertently the share of Respondent Nos. 9 and 10 is shown as 25% each in column 7(a)(g) and accordingly requires to be corrected.

4. Having considered the submissions as well as taking note

of the documents which have been relied upon by the Applicant including the aforementioned share certificate of the society and the letter addressed by the Cosmos Bank to the Secretary of the Sagar Mahal Co-operative Housing Society Ltd. as well as confirmation by Sagar Mahal Co-operative Housing Society Ltd. by letter dated 21st August 2012 which confirms that the aforementioned Flat No. 61 stands jointly in the name of Respondent Nos. 9 and 10, the amendment sought for by the Applicant is granted. Hence, the following order is passed. :-

- (i) Delay of 9 months and 5 days in filing the Interim Application is condoned.
- (ii) The Applicant is permitted to amend column J'(a)(g) of the Execution Application and warrant of sale of immovable property page 5 line 3 as per schedule I annexed to the Interim Application and consequential amendments in the Commercial Execution Application.

(iii) Amendment shall be carried out within a period of three weeks from the date of this order.

(iv) Interim Application is accordingly, disposed of.

**[R.I. CHAGLA J.]**