



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

**INTERIM APPLICATION NO.1850/2024
IN
EXECUTION APPLICATION NO.441 OF 2019**

KOTAK MAHINDRA BANK LIMITED ..APPLICANT

IN THE MATTER BETWEEN

MAGMA FINCORP LIMITED ..CLAIMANTS

VS.

AMOL REALCON ESTATE & ORS. ..RESPONDENTS

Adv. Bijal Gogri i/b. Om Gujar Law Chambers for applicant.

CORAM : Rajesh S. Patil, J.

DATE : July 2, 2024.

P.C. :

1. It is the case of the applicant in Interim Application that the Execution Petition is filed by Magma Fincorp Limited being the original decree holder/assignor for recovery of money due from the judgment debtor as per award dated 24 June 2019 passed in its favour. It is further submitted that Magma Fincorp Limited has assigned the entire loan dues/debts payable by the judgment debtors under the award dated 24 June 2019 together with the right, title and

benefits accruing, financial documents and underlying security in favour of the present applicant (Kotak Mahindra Bank Limited) vide Deed of Assignment dated 31 March 2021. The said Assignment is in Clause 2.1.1.

2. It is further submitted that pursuant to the said assignment, the applicant bank i.e. Kotak Mahindra Bank Limited has become absolute owner of the amount receivable under the award dated 24 June 2019 with respect to the loan agreement dated 23 December 2017 together with underlying security interest. It is further submitted that the fact of assignment of the debt is known to the judgment debtors as per the terms of the contractual loan agreement and also as intimated to the respondents vide assignment letter dated 26 April 2021 by the Assignor (Original Claimant) and also vide letter dated 19 July 2021 by the present applicant, post assignment of the debt.

3. Hence, the applicant submits that it is necessary to bring on record the names and addresses of the assignee-applicant on record in place and instead of the assignor in the cause title of the execution proceedings and so also, consequential amendments needs to be carried out as per

the Deed of Assignment of debts.

4. It is further submitted that the right to sue survives/continues in favour of the applicant and the applicant be permitted to continue with the Execution Petition in its own name against the respondent-judgment debtor in place and instead of the original decree holder.

5. I have heard learned counsel appearing for the applicant and I have gone through the contents of the Interim Application. With the help of the applicant's counsel I have gone through the Deed of Assignment and more particularly clause 2.1.1.

6. I have also been shown the assignment letter dated 26 April 2021 and 19 July 2021. I am satisfied that the case is made out to allow this Interim Application. The Interim Application is allowed in terms of prayer clauses (a) and (b).

7. Amendment to be carried out within a period of three weeks from today.

8. Interim Application is disposed of.

(Rajesh S. Patil, J.)