

Kavita S. J.

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

INTERIM APPLICATION NO.1969 OF 2024
IN
COMMERCIAL EXECUTION APPLICATION NO.78 OF 2020

The Cosmos Co-operative Bank Ltd., ...Applicant/Claimant

Versus

Lexter Exim & Ors., ...Respondents

And

Jyoti Deepak Chatwani & Ors., ...Proposed Respondent

Mr. Jayant Gaikwad a/w Ms. Sapna Parbat for Applicant/Claimant.

CORAM : R.I. CHAGLA, J.

DATED : 31st JANUARY, 2025.

ORDER :

1. By this Interim Application, the Applicant/Original Claimant has sought permission to bring the legal heirs of deceased Respondent No.5 on record. Further, consequential amendment in Column 'B', 'T', and 'J' of the Execution Application and Warrant of Attachment of immoveable property as per Schedule annexed to the Interim Application has also been sought. The Applicant has also

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sought condonation of delay of 179 days in filing the Interim Application.

2. The Applicant has stated that it came to learn of the demise of Original Respondent No.5 during Debt Recovery Tribunal (DRT)-II proceedings when Application No.2145 of 2023 was filed by Jyoti Deepak Chatwani before the DRT-II, Mumbai for bringing legal heirs of Original Respondent No.5 on record in S.A. No.22 of 2018. It was during these proceedings that copy of the Interim Application was received by the Applicant's Advocate on 17th April, 2024. It was only then that the copy of Death Certificate was made available to the Applicant. Prior thereto, the Applicant was informed during visit of Original Respondent No.5's wife and son in the first week of March, 2024 for settlement of Loan Account that the Original Respondent No.5 had expired on 21st June, 2023.

3. Having considered the averments in the Interim Application, I find that sufficient cause is made out for the delay in filing of the present Interim Application. The Applicant's Advocate had only learnt of the legal heirs of Original Respondent No.5 by way of the aforementioned Interim Application No.2145 of 2023 and

upon copy of the same being made available to the Applicant's Advocate which also contained copy of the Death Certificate of Original Respondent No.5 on 17th April, 2024. The present Interim Application has been filed on 30th April, 2024. Thus, the delay in filing the Interim Application is required to be condoned.

4. The Applicants are permitted to bring the legal heirs of deceased Respondent No.5 on record and consequential amendment in Column 'B', 'I', and 'J' of the Commercial Execution Application and Warrant of Attachment of immoveable property as per Schedule annexed to the Interim Application.

5. Amendment shall be carried out within a period of four weeks from today.

6. Re-verification is dispensed with.

7. The Interim Application is accordingly disposed of. There shall be no orders as to costs.

[R.I. CHAGLA, J.]