

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS COMMERCIAL DIVISION

INTERIM APPLICATION NO. 2159 OF 2024

IN

INTERIM APPLICATION NO. 1975 OF 2021

IN

COMMERCIAL EXECUTION APPLICATION NO. 81 OF 2016

The Cosmos Co-operative Bank Ltd. ... Applicant

In the matter between :

The Cosmos Co-operative Bank Ltd. ... Claimant

Versus

Kanch Ghar and others ... Respondents

And

Sonalben Shantilal Shah and others ... Co-Respondents

WITH

INTERIM APPLICATION NO. 1989 OF 2024

IN

COMMERCIAL EXECUTION APPLICATION NO. 81 OF 2016

The Cosmos Co-operative Bank Ltd. ... Applicant

In the matter between :

The Cosmos Co-operative Bank Ltd. ... Claimant

Versus

Kanch Ghar and others ... Respondents

And

Hitesh Shantilal Shah and others ... Proposed Respondents

Mr. Jayant Gaikwad alongwith Ms. Pushpa Prajapati, Advocates for the Applicant/Claimant.

Ms. Kalyani Wagle instructed by T.N. Tripathi & Co., Advocate for the Proposed Respondents.

CORAM : ABHAY AHUJA, J.
DATE : 25 NOVEMBER 2024

PC. :

1. In both these Interim Applications, the Applicant is seeking to respectively amend the Commercial Execution Application No.81 of 2016 and Interim Application No.1975 of 2021 in the said Commercial Execution Application.

2. Mr. Gaikwad, learned Counsel appears for the Applicant and submits that since the Respondent No.2 has died, by these Applications, his heirs are sought to be brought on record in the Commercial Execution Application as well as in the Interim Application in the said Commercial Execution Application. Mr. Gaikwad submits that the following heirs are sought to be brought on record :

- (i) Mr. Hitesh Shantilal Shah
- (ii) Mr. Dhaval Shantilal Shah
A-302, Abhishek Building, Vallabhbhai Road,
Vile Parle (West), Mumbai 400 056.
- (iii) Mrs. Rinkal Rahul Gada
1303, Chandak Harmony, Satya Nagar,
Borivali (West), Mumbai – 400 067.

3. Ms. Wagle, learned Counsel, appears for the legal heirs of the deceased Respondent No.2 and submits that although there is no objection to legal heirs of the deceased Respondent No.2 being brought on record, however, she is objecting to the execution proceedings

against the said legal heirs as the property in question had already been transferred.

4. Having heard the learned Counsel and having considered their submissions, this Court is of the view that the said two Interim Applications be allowed in terms of respective prayer clauses (a), (b) and (c).

5. Let the Commercial Execution Application No.81 of 2016 and the Interim Application No.1975 of 2021 be amended as per the Schedule and the heirs mentioned above to be brought on record within a period of four weeks.

6. Let the amended copies of the Commercial Execution Application and the Interim Application be served upon the newly added Respondents within a period of two weeks thereafter.

7. The newly added Respondents are at liberty to file reply to the Commercial Execution Application as well as connected Interim Applications, with a copy to the Applicant.

8. Both the Interim Applications accordingly stand allowed and disposed.

(ABHAY AHUJA, J.)