

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

**INTERIM APPLICATION NO. 3045 OF 2024
IN
EXECUTION APPLICATION NO. 88 OF 2008**

Pushpaben Bhavanji Ganatra and Ors. ...Applicants
V/s.
Mathuradas Gokuldas Ganatra & Ors. ...Respondents

Mr. Gaurang Mehta with Ms. Rhea Mehta i/b Ms. Apurva Mehta for the Respondents-Award Holders.

Mr. N. C. Pawar, OSD with Ms. V. N. Worlikar, Section Officer, Court Receiver present.

CORAM : ABHAY AHUJA, J.
DATE : 18th NOVEMBER, 2024

P.C. :

1. This Interim Application has been filed seeking the following prayers:-

“a. That the delay, if any, in filing the above Interim Application be condoned.

b. That this Hon’ble Court be pleased to Order and declare that the above Execution Application No. 88 of 2008 had been listed for dismissal on 10.9.2018 on account of mistake of the Registry of this Hon’ble Court and that the common Order dated 10.9.2018 passed in a batch of 480 Execution Applications, did not apply to the above Execution Application No. 88 of 2008 and that the above Execution Application No. 88 of 2008 requires to be treated as a pending Execution Application (on the file of this Hon’ble Court).

b1. Upon grant of prayer (b) above, this Hon’ble Court be pleased to direct the Office of the Prothonotary and Senior

Master of this Hon'ble Court to take all necessary steps to treat the above Execution Application No. 88 of 2008 as a pending Execution Application and to list for hearing the pending Chamber Summons No. 839 of 2014 filed in the above Execution Application No. 88 of 2008.

c. That this Hon'ble Court be pleased to recall the common Order dated 10.9.2018 (Exhibit "H" hereto) (to the extent it is made applicable to the above Execution Application No. 88 of 2008) and to restore the said Execution Application No. 88 of 2008 to file, to be reflected by the Office of the Prothonotary and Senior Master of this Hon'ble Court as a pending Execution Application (on the file of this Hon'ble Court).

c1. Upon grant of prayer (c) above, this Hon'ble Court be pleased direct the listing of the pending Chamber Summons No. 839 of 2014 filed in the above Execution Application No. 88 of 2008, for hearing.

2. Mr. Mehta, learned Counsel appearing for the Applicant would submit that the Execution Application filed on behalf of the Applicant had been erroneously dismissed under the common order dated 10th September, 2018, which was part of a batch of 480 matters and that therefore, the award holders were disabled from pursuing the execution proceedings, wherein an amount of Rs. 9,00,605/- are lying to the credit of the Applicant and deposited in a Fixed Deposit of a nationalised bank by the Prothonotary and Senior Master. Mr. Mehta would submit that the said application has been served upon the other parties and affidavit of service has been filed.

3. Registry to examine the affidavit of service and to place a report before this Court, whether the service has in fact been effected or not. Registry also to respond to the claims made in the Application and in particular with respect to the prayer Clause (b) and place a report before this Court by the next date.

4. After this order has been dictated one Ms. Pragna Jayesh Manek and Ms. Reena Sunil Thakkar, Respondents, Party in person present appear and submit that they are Award Debtors and three months time be granted to consider the claim and to appoint an advocate.

5. List on **6th January, 2025**.

6. Let response to this Application be filed by the Award Debtors by the next date with a copy to the other side.

(ABHAY AHUJA, J.)