

Kavita S. J.

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

INTERIM APPLICATION NO.1970 OF 2024
IN
COMMERCIAL EXECUTION APPLICATION NO.45 OF 2021

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

Versus

Euro Solo Energy Systems Ltd., & Ors., ...Respondent

And

Hitesh Shantilal Shah & Ors., ...Proposed Respondent

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

CORAM : R.I. CHAGLA, J.

DATED : 9th JANUARY, 2025.

ORDER :

1. The Interim Application has been served on the legal heirs of Respondent No.5 being proposed Respondent No.5a to 5c and Affidavit of Service dated 31st August, 2024 has been filed to that effect. The Respondent Nos. 5a to 5c have inspite of service failed to make an appearance.

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2. By this Interim Application, the Applicant in the Commercial Execution Application has sought permission to carry out amendment of bringing legal heirs of Respondent No.5 being proposed Respondent Nos. 5a to 5c on record and consequential amendment in the Commercial Execution Application.

3. The Schedule of the Amendment has been annexed at Exhibit-F to the Interim Application. There is delay of 115 days in filing the Interim Application which has been explained by the learned Counsel for the Applicant viz. that repeated letters were addressed to the representatives of Respondent No.1 for providing the details of the legal heirs of Respondent No.5 which were not responded to. Ultimately, by Order dated 8th April, 2024 passed by this Court, the Respondent No.1 was directed to furnish the details of legal heirs of Respondent No.5 herein within a period of two weeks. This was complied with by letter dated 22nd April, 2024 addressed by the Advocate for Respondent No.1. Accordingly, the present Interim Application has been taken out on 30th April, 2024.

4. Having perused the averments in the Interim Application and the Schedule of Amendment, delay of 115 days in filing Interim

Application required to be condoned and the relief sought for viz. to bring on record the legal heirs of Respondent No.5 and consequential amendment in the Commercial Execution Application in accordance with the Schedule of Amendment at Exhibit-F to the Interim Application requires to be granted.

5. Hence, the following order:

(i) Delay of 115 days in filing the Interim Application is condoned.

(ii) The Applicants are permitted to carry out amendment in the Commercial Execution Application and consequential amendment in accordance with the Schedule of Amendment annexed at Exhibit-F to the Interim Application.

(iii) The amendments shall be carried out within a period of four weeks from today.

(iv) Interim Application is accordingly disposed of. There shall be no orders as to costs.

[R.I. CHAGLA, J.]