

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

**INTERIM APPLICATION NO. 5068 OF 2025
IN
COMMERCIAL EXECUTION APPLICATION NO. 90 OF 2025**

Evertop Apartments CHS Ltd. ...Applicant
V/s.
Lotus Logistics and Developers Pvt. Ltd. & Ors. ...Respondents

Mr. Piyush Raheja with Mr. Ashish Kamat, Senior Advocate, Mr. Vikramjit Agarwal, Mr. Aadil Parsurampur, Ms. Tejas Agarwal, Ms. Ria Goradia and Ms. Tejaswini Pania i/b IC Legal for the Applicant.

Mr. Prateek Seksaria, Senior Advocate with Mr. Arun Panickar and Mr. Vinay Nair for the Respondent No.1.

Mr. Dharam Juman with Mr. Padwal, Mr. Sahil Sayed for the Respondents No. 2 and 3 in IAL 27015/2025.

Mr. Mayur Khandeparkar i/b Mr. Nitin Parkhe for the Respondent No.4 in IAL 27015 of 2025.

Mr. Nitin Chotani with Ms. Pinki Yadav and Mr. Milind Bair for the Respondents No.5 and 6.

CORAM : ABHAY AHUJA, J.
DATE : 18th SEPTEMBER, 2025

PC. :

1. This matter has been circulated at the behest of the Execution Applicant, even though the challenge to the award before the Court hearing the matters under Section 34 of the Arbitration and Conciliation Act, 1996 is part heard.

2. Mr. Raheja, learned Counsel appearing for the Execution Applicant submits that the urgency in the matter is arising in view of

the public notice dated 19th August, 2025 issued by the Respondent No.4 viz. M/s Lotus Developers, partnership firm purported to be part of the group of the Respondent No. 1-Judgment Debtor. Mr. Raheja submits that the public notice deals with the 4th Respondent's right, title and interest in the redevelopment of the land located in Jogeshwari.

3. Mr. Raheja submits that the Respondent No. 1- M/s Lotus Logistics and Developers Pvt. Ltd. is the Judgment Debtor in the award dated 16th August, 2024 and a partner and major stakeholder in the Respondent No.4. Mr. Raheja submits that the Respondent No. 4 is the alter ego of the Respondent No.1. That the Respondent No.1-Judgment Debtor has neither paid any amounts towards the satisfaction of the monetary claims of approximately Rs. 128 Crs granted in the said award nor taken any steps to comply with other directions in the said award.

4. Drawing this Court's attention to the page 281 of the Interim Application, to a communication by another society viz. Oshiwara Royal Sand Co-operative Housing Society Limited, dated 25th December, 2010 to the Respondent No.4, Mr. Raheja submits that the Respondent No.1 and the Respondent No.2 are connected entities and

as submitted that the Respondent No.4 is the alter ego of the Respondent No.1-Judgement Debtor. Mr. Raheja submits that in the said communication, it has been recorded that the Secretary explained to the Managing Committee that the developer viz. the Respondent No. 1 herein has finalised one of their group entities as the entity for the purpose of undertaking the redevelopment of the society. Mr. Raheja points out that it has also been stated in the said communication that the said society has unanimously resolved that the developer entity undertaking redevelopment of the society's property shall be the said partnership firm of Lotus Developers viz. the Respondent No. 4 herein, wherein the Respondent No.1 is a partner and a majority stakeholder.

5. Mr. Raheja has also drawn this Court's attention to the public notice at page 172 that has been issued on behalf of the Respondent No.4 and submits that the Respondent No. 4 is in the process of alienating the Jogeshwari property pursuant to the said public notice dated 19th August, 2025. Mr. Raheja would submit that the disposal of the right, title and interest of the Jogeshwari property will lead to a situation that there would be no asset available to the Execution Application for recovery of the outstandings under the award. Mr. Raheja submits that the period under the public notice has already

expired and therefore, the urgency to restrain the Respondents from dealing with the Jogeshwari property to the detriment of the execution proceedings.

6. Although, Mr. Seksaria, learned Senior Counsel appearing for the Respondent No. 1 - Judgment Debtor submits that the hearing of the Application for stay of the award is on going and that the matter is listed tomorrow as part heard and that this Court may consider keeping the matter after the said hearing, Mr. Sekseria submits that in any event the Respondent No. 1 is not dealing with or disposing of the Jogeshwari property as the Respondent No. 1 does not have right, title and interest in the said property. Mr. Sekseria submits that in fact the public notice has been published by the solicitors of the prospective purchasers of the Jogeshwari property and not on behalf of the Respondent No.1 or the Respondent No.4.

7. Mr. Khandeparkar, learned Counsel appearing for the Respondent No.4 has vehemently opposed the submissions made on behalf of the Execution Applicant submitting that the Respondent No. 1 has ceased to be a partner of the Respondent No. 4 since 1st April, 2015 and the said entities are not connected in any manner. Mr. Khandeparkar also

submits that no relief can be granted against the Respondent No. 4 in as much as the Respondent No.4 was not even added as party to the arbitration proceedings nor is a Judgment Debtor under the award. Mr. Khandeparkar further submits, on instructions, that the Respondent No.1 has no assets or interest in the Respondent No.4 and that the share of Mr. Sekseria's client has been paid off in 2015-2016. Mr. Khandeparkar submits that all that the Respondent No.4 has is development rights with respect to the Oshiwara Royal Sand Co-operative Housing Society Limited, where the Respondent No.1- Judgment Debtor has no stake since 2015. Mr. Khandeparkar submits that, therefore, no injunctive orders can be granted against the Respondent No.4, while seeking time to place his submissions on record in the form of reply.

8. I have heard the learned Senior Counsel and the learned Counsel for the parties.

9. At the outset, it must be pointed out that as an etiquette to the Court hearing the part heard matter with respect to the stay on the execution of the award, this Court would prefer to adjourn the matter until the said hearing is concluded and orders are passed, however,

since an apprehension has been expressed on behalf of the Execution Applicant that properties / assets belonging to the Judgment Debtors would be alienated or dealt with in a manner jeopardizing the recoveries under the award, having heard the learned Senior Counsel and the learned Counsel for the parties as above and having perused the Applications with the assistance of the learned Senior Counsel and the learned Counsel as above, this Court directs that until the next date, the parties maintain status-quo with respect to the Jogeshwari property.

10. Let replies to the Interim Application be filed within a period of two weeks with copy to the others. Rejoinder(s) in two weeks thereafter with copy to the others.

11. List on **16th October, 2025**. Liberty to apply.

(ABHAY AHUJA, J.)

Digitally
signed by
NIKITA
YOGESH
GADGIL
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