

IN THE COURT OF SMALL CAUSES AT MUMBAI
(BANDRA BRANCH)

ORDER BELOW EXHIBIT NO.16
IN
EXECUTION APPLICATION NO.54 OF 2023
IN
R.A.E. & R. SUIT NO.519 OF 2017

M/s. Multisource Power And Developers LLP . . Plaintiff.

Versus

1. Mr. Kamlesh Chandu Mehta and anr. . . Defendants.

Coram : A.S. Pandagle, Judge
C.R.No.37
Date : 17/3/2025.

ORAL ORDER :

1. Perused the application and say filed thereon.
2. Heard both sides.
3. Present application is filed on behalf of defendant No.1 to keep this Execution Application for further hearing alongwith Marji Application. By filing present application it is contended that the defendant No.1 filed Marji Application under Order 9 Rule 13 for setting aside exparte decree and consequential relief alongwith Marji Application No.30 of 2023 for condonation of delay if any. Therefore it will be unjust to proceed with this Execution Application before deciding the referred Marji Application, therefore submitted that to keep this Execution Application for further hearing alongwith Marji Application.
4. On the other hand, plaintiff by filing reply resisted the

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application and contended that Marji Application No.30 of 2023 is pending for serving the defendant No.2 since April 2023. The judgment debtor No.1 has purposely ignored to serve the defendant No.2 in Marji Application No.30 of 2023. In the entire application nowhere mentioned trial of Execution Application bearing No.54 of 2023 alongwith Marji Application No.30 of 2023. The prayers as prayed in the present application are beyond the scope of Marji Application, there is no provision in the Code of Civil Procedure, 1908, for clubbing Marji Application which is filed for condonation of delay for filing an application for setting aside exparte decree alongwith execution application filed for executing the decree rightly passed in favour of plaintiff, therefore submitted that application may be rejected with heavy compensatory costs.

5. After hearing both sides, gone through the contents of the application and reply filed thereon, also gone through the record of the proceedings, by way of this application defendant No.1 seeking relief to keep this execution proceeding alongwith Marji Application No.30 of 2023, in both the matters parties are same, execution application is filed for execution of decree and Marji Application is filed for condonation of delay in filing an application for setting aside exparte decree passed in RAE & R Suit No.519 of 2017. Both parties in both proceedings are the same, for the convenience of both the parties, it is just and necessary to keep these both proceedings tagged with each other. Hence, I proceed to pass following order.

ORDER

1. Application is allowed.

2. Keep and tag this Execution proceeding alongwith Marji Application No.30 of 2023.

Bandra - Mumbai.
Date : 17/3/2025.

(A.S. Pandagle)
Judge, C.R.No.37.

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