

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO. 466 OF 2011**

Arzan Rameshwar Lal Rikhye	...Petitioner
<i>And</i>	
Rameshwar Lal Rikhye Alias	...Deceased
Rameshwar L. Rikhye	

Mr. Manek Kalyaniwala, *i/b M/s. Mulla & Mulla, for the Petitioner.*
Dr. Abhinav Chandrachud, *Amicus Curiae,*
Mrs. Rekha Rane, *Administrator, High Court, Mumbai is present.*
Mr. Prem Sood, *for Save the Children.*

CORAM: G.S. PATEL, J
DATED: 14th August 2015

PC:-

1. After three years, this matter now draws to a close. Given its unusual context, I believe it is necessary briefly to recount the matter's history and background.

2. One Captain Rameshwar Lal Rikhye died leaving a Will dated 14th June 1999 and a Codicil dated 6th March 2003. He appointed three executors. His will and codicil made certain relatively modest bequests to some of his relatives. The bulk of his estate was left to "the poor and needy of India". In 2011 when this Petition was filed,

and later in 2012 when Notice of Motion No. 96 of 2012 was filed, the exact extent of that estate was unknown. There was also a question as to whether the charitable bequest was to be made to a Trust and how precisely the disposition in the Will to the “poor and need people of India” was to be construed. By her elaborate judgment dated 26th September 2013, Mrs. Justice R.S. Dalvi answered these issues. In paragraph 24 of that judgment, she set out a series of directions. Mrs. Rekha Rane, an Associate of this Court was appointed as an Administrator of the estate. Mrs. Justice Dalvi also directed *inter alia* that accounts be opened in the name of the Administrator and that certain named charitable institutions be given amounts in accordance with the Will. The choice of those institutions was clearly unexceptionable; each is engaged in outstanding work directed specifically to the poor and needy.

3. The matter came up for directions on several further occasions and a number of orders came to be passed. Not all of the institutions named in Mrs. Justice Dalvi’s orders were responsive. By this time, too, the total extent of the estate realized was substantially more than I think anyone reasonably envisaged. I thought it prudent then to adopt a clearly stated and spelt out transparent framework for the identification of recipient charities. I requested Mr. Shiraz Rustomjee and Dr. Abhinav Chandrachud to serve as *amicus*. Both readily agreed. They presented suggestions of clear and transparent guidelines for the selection of charitable institutions keeping the bequest in mind. One of the parameters adopted was that the recipient charity must be entirely secular. This was thought necessary since the administration was directly under the supervision of this Court. In addition, a specific requirement

adopted (apart from the necessary compliance requirements) was that all funds received were to be applied only towards the cause of the poor and needy.

4. Following the adoption of this framework, a number of charitable organizations were identified. Some, if not all, of the several charitable institutions were those with which several senior members of our Bar are familiar. The Administrator wrote to these charitable organizations. Some of them responded providing particulars of their needs, their organizational set up and other information. Each one of these submissions was then reviewed by Dr. Chandrachud. He presented his findings, report and recommendations. These were discussed and considered. At the end of this scrutiny, a distribution of Rs. 17.10 lakhs was made to 17 selected charities; Rs. 13.37 lakhs to the Indian Cancer Society; and Rs. 6 lakhs to a charitable institution called Janhit.

5. The total amount realized to the estate account was Rs. 3,57,82,693.23. Of this, an amount of Rs. 3,10,07,000/- was distributed in the manner set out above. An amount of Rs. 7 lakhs was additionally distributed to the beneficiaries named in the Will. Certain expenses and costs were also provided for, but these are relatively minor and fully accounted. An amount of Rs. 9,07,000/- was paid to the Petitioner's Advocates towards their fees. The total amount distributed from the estate account was Rs. 3,27,87,144/-. Today, there is yet available in the account of the Administrator a sum of Rs. 30,44,958.25. In addition, an amount of Rs. 1,37,016/- is in the hands of the Prothonotary & Senior Master. This was cash

found at the residence of the deceased. Thus, a total amount of Rs. 31,81,974.25 is even today available for final distribution.

6. There are three pending matters that remain. First, there are two charitable organizations, which for reasons previously recorded, have not yet received any amount. These two organizations are **Save the Children** and **Saheli**. It has been previously agreed and directed that they will receive an amount in the final distribution.

7. Second, there is the matter of the pending bill of the Petitioner's Advocates in the sum of Rs. 6,06,000/-. Mr. Kalyaniwala, learned Advocate for the Petitioner, in fairness states that other than the out of pocket expenses of Rs. 10,500/-, the law firm of M/s. Mulla & Mulla & Craigie, Blunt & Caroe is agreeable to have the remaining amount of its bill donated to the Masina Hospital. I must express my appreciation of this gesture. It fully accords not only with the sentiments of the late Capt Rikhye as expressed in his Will and Codicil, but also the endeavours we have made in these past few years.

8. The Administrator is directed to reimburse to M/s. Mulla & Mulla an amount of Rs. 10,500/- and to then issue a cheque in favour of Masina Hospital for the remaining amount of Rs. 5,95,500/-. In her covering letter, Mrs. Rane should clarify to Masina Hospital that though the cheque is issued by her, it is a donation made by and on behalf of the law firm of M/s Mulla & Mulla & Craigie, Blunt & Caroe.

9. Third, there is then the question of refund of Court Fee and other expenses to the Petitioner herself. This is in the amount of Rs. 1,52,070/-. This amount is to be refunded by the learned Administrator by an instrument drawn in the name of the Petitioner at the earliest.

10. The amount of Rs. 1,37,016/- in the hands of the Prothonotary & Senior Master is to be transferred at the earliest to the account maintained by the Learned Administrator with the Bank of India. The Prothonotary & Senior Master should act on an authenticated copy of this order in that behalf.

11. I must express my thanks to Mr. Kalyaniwalla for his assistance and must also make special mention of the contribution of Mr. Rustomjee and Dr. Chandrachud who served as amicus. It is on account of their inputs and contributions that we were able to evolve a fair, transparent and clear set of guidelines and to then use these in the selection process. All three of them at once understood the purpose and intent of the Court and readily volunteered their time and assistance.

12. I turn now to the question that has for some time remained in the background. This is to acknowledge the singular contribution to this entire process of Mrs. Rekha Rane, an Associate of this Court. Ever since she was appointed by Mrs. Justice Dalvi, Mrs. Rane has worked tirelessly to achieve the public purpose of the late Capt Rikhye's testamentary disposition. Such fixity of purpose is rare enough; what is even more uncommon is the tirelessness and dogged perseverance with which she has discharged her assigned

task to the end. Even the most cursory look at the record in this case shows beyond any shadow of doubt that but for her efforts and untiring work, all in addition to her regular duties, not even a fraction of this estate would have been realized. Indeed, I would venture to suggest that in all likelihood, at the time of her appointment, none could ever have conceived that the final estate would be of such a value. The total amount realized and the total amount distributed are anything but insignificant. I have myself seen Mrs. Rane working long hours after her regular duties only for this matter. She has followed up with banks, financial institutions, jewellers, and more. She has corresponded regularly with those holding assets. Reminders were sent. When even these failed to elicit results, she moved to have summonses issued. She then met with the representatives of the various agencies and entities to ensure that everything due to the estate was brought in. She carefully husbanded the estate of the deceased and ensured that not one part of it is allowed to be dissipated. All of this she has done with neither expectation of reward, compensation or gratitude. Her work in this matter is an exemplar of what it truly means to do one's duty.

13. It is true that certain amounts have been paid out towards costs of report previously made but I am equally aware that there have been times when Mrs. Rane have been personally out of pocket, at times for weeks and months at end without seeking reimbursements. I believe it would be entirely unjust, and even churlish, if the Court did not acknowledge and express its appreciation of Mrs. Rane's efforts and assiduous work in this matter. I am, therefore, taking the liberty of making a provision for

the payment of costs to Mrs. Rane in the amount of Rs. 1.5 lakhs. If seen in the context of what she was instrumental in realizing to the cause, though I do not think that that is an appropriate measure, this amount is less 0.5% of what she has been able to bring in. A very large number of charities have benefited to a great extent directly as a result of her efforts. The amount is hardly commensurate. It is, as I said, a token; and it is for Mrs. Rane to decide how to use the amount.

14. There is a small amount as an advance against anticipated expenses in Mrs. Rane's hands. She will prepare an account of expenditure and the balance will be returned to the estate account.

15. The balance amount after these bills and disbursements is to be divided equally between Save the Children and Saheli.

16. Once all the disbursements have been made, the accounts maintained by the Administrator with the Bank of India are to be closed upon production of an authenticated copy of this order. The learned Administrator will file a final statement of accounts and report and place these along with the record and proceedings in this matter.

17. The Petition is disposed of in terms of this order.

18. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J.)