

Sharayu.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION NO. 52 OF 2015
IN
TESTAMENTARY PETITION NO. 80 OF 2014**

Manohar Vaman Dandekar	...Applicant
<i>In the matter of</i>	
Manohar Vaman Dandekar	...Petitioner
<i>Versus</i>	
Mr. Sunil Nikam & Anr.	...Respondents

Mr. V. N. Bolinjar, *for the Applicant/Petitioner*

CORAM: G.S. PATEL, J
DATED: 29th April 2015

PC:-

1. Heard. The Petitioner applied for grant of Letters of Administration in Petition No. 80 of 2014 to the property and credits of one Kamal Waman Dandekar. One of the properties in the schedule to that Petition is Gala 304, 3rd Floor, Heramb Building, 25-25-A, Borbhat Lane, Krantivir Rajguru Marg, Girgaon, Mumbai – 400 004, allotted by MHADA, the present Respondent. These premises stood in the name of the deceased, who was the sister of the Petitioner. The deceased was unmarried. The

Petitioner is her heir. Letters of Administration were granted on 19th April 2015.

2. Following this grant, the Petitioner applied to the 2nd Respondent MHADA to transfer these premises to his name. He showed the officers of MHADA the original grant and furnished a photocopy.

3. Mr. Bolinjar, learned Advocate for the Petitioner, points out that instead of acting on Letters of Administration, MHADA has responded in the most curious and incomprehensible fashion. On 10th July 2014 MHADA wrote to the Petitioner reproducing a portion of Section 307 of what it called the “Letters of Administration Act 1925”. Presumably, this was intended to be a reference to the Indian Succession Act. Be that as it may, other than setting out some statutory provisions, MHADA said nothing. It also did nothing. This is not the response one expects from a public authority when given formal orders issued by a Court.

4. Since then the Petitioner has written to MHADA, but without effective response. On 12th December 2014 MHADA wrote to the Petitioner saying that a similar matter had been sent to MHADA’s legal advisor for an opinion.

5. Neither MHADA’s nor its legal advisor’s opinion is of the least relevance or concern. The grant of Letters of Administration is an order of this Court. There is no question of MHADA or its legal advisor having an ‘opinion’ on it. The Petitioner is entitled to

apply on the strength of the Letters of Administration for a transfer of that Gala to his name.

6. This Notice of Motion has been served. The original letter of service from the Petitioner's Advocate is taken on file and marked "X" for identification. None appears for MHADA. The Notice of Motion is made absolute in terms of prayer clause (a), which reads as follows :-

"(a) That this Hon'ble Court be please to direct the Respondents to transfer in the name of Petitioner as a Administrator, Gala No. 304, situate at 3rd Floor of Heramb Building, 25-25-A, Borbhat Lane, Krantivir Rajguru Marg, Girgaon, Mumbai – 400 004 admeasuring 184 sq.ft. Standing in the name of deceased Kamal Vaman Dandekar in view of the Letter of Administration dated 19th April 2014 granted by this Hon'ble Court to the Petitioner in Petition No. 80/2014."

7. MHADA is expected to comply with this order on or before 8th May 2015 on being furnished with an authenticated copy of this order. If not, liberty to the Petitioner to urgently move before the Vacation Judge.

(G. S. PATEL, J.)