

JSN

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
TESTAMENTARY AND INTESTATE JURISDICTION  
TESTAMENTARY PETITION NO.792 OF 2014**

|                        |                |
|------------------------|----------------|
| Munir Peshimam         | ... Petitioner |
| <i>AND</i>             |                |
| Fatimabai Rahim Mistry | ... Deceased   |

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**Mrs. A.R. Lambay, *i/b Lambay & Co. for the Petitioner.***

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**CORAM: G.S. PATEL, J**  
**DATED: 5th May 2016**

**PC:-**

1. The difficulty that the Applicant faces is that even as an administrator who has in his hands Letters of Administration granted by this Court to the property and credits of Fatimabai Rahim Mistry, the most principal estate of which is residential Flat No.25, Mistry Court, the Gulshiana Co-Operative Housing Society, Mistry Court, 208, Dinshaw Waccha Road, Opposite CCI, Mumbai 400 020, his intending purchasers do not find in that grant a specific power to alienation. The second issue is that Society has not, for reasons that I am unable to understand, entered the administrator's name on the society record.

2. The application today is for an open-ended leave to sell. The department has objected saying that a sale agreement should be

brought forward. Mrs. Lambay says that the sale agreement at a appropriate price is not possible in the first place. Her client is, therefore, stuck in a sort of Catch-22 situation.

3. Ms. Lambay states that there is ready reckoner value to the flat. The administrator undertakes not to sell the flat below that value. That undertaking is accepted as an undertaking to the Court.

4. I understand the Applicant's concern. I believe they are genuine. At the same time this needs to be balanced against the need for some caution.

5. Hence the following order:-

(a) The Applicant, Munir Peshiman as the Administrator of the property and credits of Fatimabai Rahim Mistry is entitled and authorized to offer the flat in question being Flat No.25 at The Gulshiana Co-Operative Housing Society, Mistry Court, 208, Dinshaw Waccha Road, Opposite CCI, Mumbai 400 020, and its accompanying garage to prospective purchasers.

(b) The Applicant agrees and undertakes that he will not entered into any agreement with any purchaser at a price per square foot lower than the ready reckoner value as of today.

- (c) As and when the Applicant has been able to identify the purchaser he will make a separate application, if thought necessary at that time, for a special permission to conclude that sale to that particular purchaser.
  - (d) In the meantime, The Gulshiana Co-Operative Housing Society is directed to forthwith enter the name of the Applicant on the Society records in his capacity as the Administrator of the estate of Fatimabai Rahim Mistry.
- 6. It is clarified that this application is not disposed of. It is simply adjourned *sine die* with liberty to the Applicant to apply.
  - 7. The Registry is directed to number the Judge's Order.
  - 8. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J.)