Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO. 26 OF 2016
IN
TESTAMENTARY PETITION NO. 566 OF 2008
WITH
MISCELLANEOUS PETITION NO. 63 OF 2010

Arzan Khambatta & Rajendra Kisanrao Shinde …Applicants
In the matter between
Arzan Kambatta & Rajendra Kisanrao Shinde ...Petitioners
Versus
Martin Borchert & Anr. …Respondents
And
M/s. Sundaram BNP Paribas & Anr. Co-Respondents

Mr. J. F. Pochakhanwala, Senior Advocate, *i/b MNSQ Legal, for the Petitioners/Applicants.*
Mr. Haresh Jagtiani, Senior Advocate, *a/w Vandana Kumavat Mehta, Siddhesh S. Bhole, Royden Fernandes, Rajshree Jain, i/b Siddhesh Bhole for Petitioner, Martin Borchert in MPT/63/10.*
Mr. Aditya Chitale, *for the Petitioner in TP/566/08.*

CORAM: G.S. PATEL, J
DATED: 22nd July 2016

PC:-

1. Prayer (a) of the Chamber Summons seeks leave to amend the Schedule of Assets to the Petition. The amendment is to include in that Schedule an investment made by the deceased, the late Mrs. Ursula Dara Mistry, in Sundaram Select Midcap Regular Dividend Plan, New Folio No. SBBNAB499499 of Sundaram BNP Paribas Fund Services. Mr. Pochkhanwala for the Applicants (Original Petitioners) says that the amendment is necessary because this investment was not till recently known to the Petitioners. Mr. Jagtiani for the Respondent has no objections to this inclusion.

2. Prayers (b) and (c) are for liquidation of the amount lying to the credit of a bank account no. 024110201011 with the Standard Chartered Bank, Breach Candy Branch.

3. In my view, it would be appropriate, given the disputes, that both the investment and the amount lying to the credit of that bank account be brought into the estate funds. However, there will be no further distribution without orders of this Court.

4. Accordingly, the Chamber Summons is made absolute in the following terms:

(a) Prayer (a) is granted, which reads thus:

> "(a) That this Hon'ble Court be pleased to allow the Applicants/Org. Petitioners to amend the Schedule No. I-Schedule of Assets by incorporating therein the hitherto unknown investment made by the late Mrs. Ursula Dara Mistry in the Sundaram Select Midcap Regular Dividend Plan, New Folio No. SBBNAB4994499 of

> the M/s. Sundaram BNP Paribas Fund Services Ltd., including the dividend and the interest earned thereupon;"

(b) M/s. Sundaram Select Midcap Regular Dividend Plan is directed to liquidate, close and release all investments made by the deceased, Mrs. Ursula Dara Mistry in the Sundaram Select Midcap Regular Dividend Plan, New Folio No. SBBNAB4994499 of the M/s. Sundaram BNP Paribas Fund Services Ltd. They will issue a cheque in favour of "Arzan Khambatta & R. K. Shinde". The amount is not to be disbursed without specific orders of this Court.

(c) Similarly, the Branch Manager of the Standard Chartered Bank, Breach Candy Branch, Bhulabhai Desai Road, Mumbai 400 026 shall close the Bank Account No. 024110201011 and remit the amount lying to the credit of that account by cheque in favour of Arzan Khambatta & R. K. Shinde.

(d) The bank will also draw up a complete list of transactions in the account from the beginning to the date of closure. I am making it clear that I expect the Standard Chartered Bank to comply with this and not to respond by saying that they have some other procedure and that they cannot furnish this information. I am also making it clear that this is in no sense is a request to the Standard Chartered Bank.

5. Both the Standard Chartered Bank and the BNP Paribas will act on an authenticated copy of this order.

6. This entire order is expressly without prejudice to the rights and contentions of both sides, including, *inter alia*, as to whether or not the Respondents are entitled to any part of these funds or to any part of the estate of the deceased.

7. Further, the Union Bank of India, M. S. Marg, Mumbai Branch holds approximately 2300 shares of the Union Bank of India purchased by the deceased and forming part of the estate. At this stage, it is unknown whether these shares are in physical form or in Demat form. The Branch Manager of the Union Bank of India will provide the necessary information, including all details of the shares and the form in which they are held. If they are held in a Demat Account with that branch, the Demat account number and holding details will also be provided. Mr. Chitale, who is on record for the Petitioners, will send an authenticated copy of this order to the UBI. The bank will send the information to Mr. Chitale, who will place it on an Affidavit on or before the next date. The Branch Manager of the Union Bank of India will act on an authenticated copy of this order.

8. Stand over to 2nd September 2016.

(G. S. PATEL, J.)