

JSN

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO. 525 OF 2015**

Zainuddin Hakimudding Arzoo	... Petitioner
<i>And</i>	
Abbasbhai Fidahussain Bohra	... Deceased

TESTAMENTARY PETITION NO. 498 OF 2015

Kutubddin S/o. Abbasbhai Tambawala	... Petitioner
<i>And</i>	
Abbasbhai Fidahussain Bohra	... Deceased

Ms. Priyanka Kothari, *i/b Waquar Ahmad for the Petitioner in TP No. 498 of 2015 and Applicant in NMT Nos. 188/2016, 189 and 190 of 2016.*

Ms. Kanchan Chavan, *for the Petitioner in TP No. 525 of 2015 and Respondent No.2 in NMT No.188 of 2016.*

CORAM: G.S. PATEL, J
DATED: 2nd December 2016

PC:-

1. The Petitioner in Testamentary Petition No. 498 of 2015, one Kutubuddin Abbasbhai Tambawala (“**Kutubuddin**”) obtained granted Letters of Administration to the property and credits of Abbasbhai Fidahusain Tambawala (“**Abbasbhai**”). It seems that thereafter one Zainuddin Hakimuddin Arzoo (“**Zainuddin**”) filed

Testamentary Petition No. 525 of 2015 seeking probate to a Will said to have been left by Abbasbhai. Kutuddin filed a Caveat and Affidavit in Support opposing the grant of probate and disputing the Will.

2. In the meantime Kutubuddin filed three Notices of Motion Nos. 184 of 2016, 185 of 2016 and 186 of 2016 against three different banks, joining Zainuddin as the 2nd Respondent, and seeking that the amounts lying to the credit of Abbasbhai's accounts in those three banks be brought into Court.

3. I made an order on those Motions on 18th July 2016. These amounts have been deposited with the Prothonotary and Senior Master of this Court. The particulars are as follows:-

Sr. No.	Notice of Motion	Date of Investment	Investment Amount	Invested in	Fixed Deposit maturity date
1	Notice of Motion No. 188 of 2016 Kutubddin S/o Abbasbhai Tambawala V/s The City Co-Op Bank Ltd., and Another	25/08/2016	5,78,239.00	Union Bank of India, M.S. Marg	25/08/2017
2	Notice of Motion No. 189 of 2016 Kutubddin S/o Abbasbhai Tambawala Vs The Shamrao Vitthal Co-Op Bank Ltd. and Anr.	25/08/2016	5,68,488.00	Union Bank of India, M.S. Marg	25/08/2017

Sr. No.	Notice of Motion	Date of Investment	Investment Amount	Invested in	Fixed Deposit maturity date
3	Notice of Motion No. 189 of 2016 Kutubuddin S/o. Abbasbhai Tambawala V/s Indian Overseas Bank and Anr.	30/08/2016	8,00,000.00	Union Bank of India, Home Stree Branch	30/08/2017
	TOTAL		19,46,727.00		

The total amount is Rs.19,46,727/-.

4. The parties have now resolved their disputes. Kutubuddin has agreed to withdraw his caveat in Zainuddin's Testamentary Petition No. 525 of 2015. That caveat is dismissed as withdrawn. For his part, Zainuddin, who is personally present in Court, requests that he be permitted to withdraw the Testamentary Petition. His Testamentary Petition No. 525 of 2015 is dismissed as withdrawn. Refund of Court Fees, if any, in accordance with the Rules. Drawn up order is dispensed with.

5. As regards the amount of Rs.19,46,727/-, it is agreed between the parties that this amount in its entirety with accrued interest is to be paid by the Registry to Kutubuddin Tambawala, the Petitioner in Testamentary Petition No. 498 of 2015.

6. All concerned to act on an authenticated copy of this Order.

(G. S. PATEL, J.)