

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 19 OF 2016**

Zahara Parvez Topiwala	...Petitioner
<i>Versus</i>	
Hasina A Daredia	...Caveator
<i>And</i>	
Parvez Hyderali Topiwala	...Deceased

Mr Clive D'Souza, i/b Raphael D'Souza, for the Petitioner.
Mr Rahul Soman, i/b M/s. Solomon & Co., for the Caveator.

CORAM: G.S. PATEL, J
DATED: 6th April 2018

PC:-

1. There is a dispute as to heirship. One of the noticees to the proclamation, Mrs Hasina Darediam, opposes issuance of a Heirship Certificate. There is a controversy as to whether it is the Petitioner who is a heir under the personal law governing the parties or whether the noticees, i.e. the sisters of the deceased, all Ismaili Khojas, are governed by the Hindu Law of Succession or not.
2. This is not a controversy that can be examined in proceedings of this nature under Section 2 of the Bombay Regulation VIII of 1827.

3. Liberty to the Petitioner to adopt such proceedings as she may be advised for a declaration and adjudication of her rights in respect of the estate of the deceased, Parvez Hyderali Topiwala.
4. The Petition is disposed of in these terms. No costs.
5. All rights and contentions of all sides are expressly kept open.

(G. S. PATEL, J)