

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 133 OF 2017
IN
TESTAMENTARY PETITION NO. 469 OF 2014**

Dawood I Patel & Ors

...Petitioners

Versus

Tahsil Office & Ors

...Respondents

None, for the Petitioners.

Mr Yakub Ibrahim Udat, Respondent No.2 in person.

CORAM: G.S. PATEL, J

DATED: 10th October 2018

PC:-

1. The Petitioners and their Advocate are absent. There is no ad-interim order.
2. The 2nd Respondent is present. He has travelled here from London and this is the third time that he has travelled here to attend to this matter.
3. The Petition seeks revocation of a grant of Letters of Administration obtained by 2nd Respondent on 30th September 2015. The Miscellaneous Petition itself was filed two years thereafter and clearly pertains to certain land. It is well settled that

questions of title to land or even of a share in land are not decided by testamentary proceedings.

4. The Petitioner is the 2nd Respondent's mother's brother and would not therefore be required to be cited in the Petition for Letters of Administration in the first place. Even if he had any interest in commonly held property, that is a question of title, not a question of administration of or representation to an estate.

5. The Petition itself shows that Respondents Nos. 3, 4, 5 and 6 are all residents of UK. It purports to show the 2nd Respondent as a resident of Mumbai but the 2nd Respondent in fact lives in the UK. The Petitioners cannot delay matters like this and certainly would have to face the consequences of non-appearance and perhaps even an order of costs to the Respondents to whom inconvenience and hardship is caused by incessant adjournments.

6. The appearance of the Petitioners and their Advocate is correctly shown on board. In view of their absence today, the Petition is dismissed.

7. There will be no application for restoration without a substantive Motion and without this Motion being properly served on all the Respondents including the present 2nd Respondent at his address in London.

(G. S. PATEL, J)