

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
JUDGE'S ORDER NO. 61 OF 2018
IN
TESTAMENTARY PETITION NO. 1631 OF 2017**

Dimple Rao Polarouthu ...Petitioner

Chandrashekhar Rao Polarouthu ...Deceased

Ms Subhasree Chatterjee, *with Arshi Gandhi, i/b Manilal Kher
Ambalal & Co., for the Petitioner.*

**CORAM: G.S. PATEL, J
DATED: 20th April 2018**

PC:-

1. The Petition is for Letters of Administration to the property and credits of one Chadrashekhar Rao Polarouthu. He died on 7th April 2015 in California, USA. He left properties in Mumbai and Maharashtra. He is said to have died intestate. He was survived by his mother Shakuntala, age 75; his widow Dimple, age 46 years; and a minor daughter Nandini, age 10 years. Dimple is the Petitioner through her Constituted Attorney.

2. The Judge's Order seeks exemption from justifying surety in respect of 1/3rd share of the minor Nandini in the estate of the

deceased. This estate includes a residential flat No. 202 along with an associated car parking space in Kesar Kripa CHSL, Plot No. 361, 14th Road, Khar (West), Mumbai 400 052 valued at Rs. 77,45,911/- and an open plot of agricultural land bearing Survey No. 73 admeasuring 0.20 Are, about half acre, at Village Mugaon, Pune valued at Rs. 1,50,000/-. The minor would have a 1/3rd share in both these properties.

3. If either or both of these properties are required to be put to sale, liberty to the Petitioner to make an application with complete particulars so that the alienation of the minor's estate can be separately provided for. The Petitioner agrees and undertakes not to make any such alienation of the minor's 1/3rd share in this property without leave of this Court in a properly brought Petition.

4. The mother of the deceased has filed an Affidavit at page 9 of the Testamentary Petition, in which she says that she has relinquished her 1/3rd share in her deceased son's estate in favour of her daughter-in-law, the present Petitioner. I cannot pronounce on this nor give the Petitioner an adjudication. Undoubtedly the mother of the deceased will need to make and execute an appropriate deed of transfer by gift or otherwise of her undivided 1/3rd share, right, title and interest in these immovable properties and other portions of the estate in favour of the Petitioner, her daughter-in-law. She is at liberty to do so. All her rights and contentions are kept open in that behalf. In addition, she has liberty to apply.

5. The Petitioner's affidavit says she is unable to afford the costs of providing justifying surety for her daughter's $\frac{1}{3}$ rd share. The minor daughter lives with the Petitioner. Hence, the requirement of justifying surety is dispensed with.

6. The Judge's Order is disposed of in these terms. There will be no order as to costs.

(G. S. PATEL, J)