

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 150 OF 2015
IN
TESTAMENTARY PETITION NO. 848 OF 2011**

Pooja Prakash Vedpathak & Ors	...Petitioners
<i>Versus</i>	
Yeshwant Chandrakant Aldankar	...Respondent

Mr Ravi Gadagkar, *with Aniket Ransubhe, i/b Ajay Basutkar, for the
Petitioner.*

Mr Vijay Kantharia, *i/b Shubhada S Salvi, for the Respondent.*

CORAM: G.S. PATEL, J
DATED: 16th January 2018

PC:-

1. It is time now to put an end and give final closure to a long, needlessly hurtful, and bitter fight within a family. On one side are the Petitioners, the widow and daughters of one Chandrakant Y Aldankar and on the other side, the deceased's son Yeshwant. Through much of 2016, from spring through the monsoon and into winter, assisted by counsel on both sides, I attempted to fashion a resolution of the disputes. These related essentially to a single immovable property, a flat in Jeevan Kranti CHS, Chaitanya Nagar, Vakola Bridge, Santacruz (East), Mumbai 400 055. The flat was finally got valued at Rs. 1,04,00,000/-. It was accepted that there

were eight equal co-sharers including the deceased's widow, Ranjana, the mother of daughters and the Respondent. Yashwant was then in use and occupation of that flat. It was agreed that he would be given first option to pay 7/8th of the value so determined to his sisters and mother. He requested time to arrange funds. This too was agreed. He sought five months. I gave him six. He had till 31st May 2017 to make the necessary payments to the other co-sharers by seven instruments in the amount of Rs. 13,00,000/- each. It was agreed that should he fail to do so by 31st May 2017, he would be deemed to have given up not only that right to exercise the first option but would agree to transfer his 1/8th share to the Petitioners for a valuation of Rs. 13,00,000/-.

2. I find from subsequent orders that Yashwant was not able to make payment within the stipulated time. A conveyance in favour of the Petitioners was somewhat delayed but the matter directions for this purpose on 13th October 2017 (SC Gupte J). There followed an order of 7th November 2017 and that was in respect of Notice of Motion (L) No. 37 of 2016 that the Petitioners filed to initiate criminal proceedings against their brother Yashwant. That Motion was not pressed upon Yashwant tendering an apology. Yashwant was present in Court on 7th November 2017. His apology was accepted.

3. By that date, a deed of relinquishment dated 28th September 2017 had been executed and registered and the conveyance of the flat was already complete.

4. As far as I can tell, therefore, nothing remains in the matter except prayer clauses (b) and (c) to the present miscellaneous petition. These seek that the Respondent Yashwant be punished for his past allegedly contemptuous conduct and further that the Registrar General of this Court should direct the Deputy Commissioner of Police of Zone – 8 to direct that action be taken against Police Officers for following to act on the Petitioners' complaints.

5. Mr Gadakkar has no instructions not to press prayer clauses (b) and (c). It appears that the Respondent in the meantime had also filed an application to appear in person and sought certified copies of the entire record.

6. None of this is necessary. It is time, in my view, that parties move on and treat this as a closed chapter. If they are unable to find it in themselves to do so, I will nudge them along in that direction by declining reliefs in terms of prayer clauses (b) and (c) simply because I do not believe the slightest positive purpose will be served, and any order either on merits will only provoke further acrimony.

7. Miscellaneous Petition is finally disposed of in these terms. There will be no order as to costs.

8. The so-called In Person Application is infructuous and disposed of accordingly. No costs.

9. My thanks to appearing counsel not only for their assistance to the Court but also for their perseverance in pursuit of a rational and amicable solution.

(G. S. PATEL, J)