

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
INTERIM APPLICATION (L) NO.19974 OF 2021
IN
TESTAMENTARY PETITION NO.24 OF 2018**

Meraj Begum Widow of Afzal Ali Khan ...Applicant

In the matter between :

Zubeda Begum wife of late
Nawab Zulfekhar Jah Bahadur & Ors. ...Petitioners

V/S

Zubeda Begum wife of late
Nawab Zulfekhar Jah Bahadur & Ors. ...Respondents

**WITH
TESTAMENTARY PETITION NO.24 OF 2018**

Zubeda Begum wife of late
Nawab Zulfekhar Jah Bahadur & Ors. ...Petitioners

V/S

Nizam Mir Osman Ali Khan Asif Jah (Deceased) ...Respondents

**WITH
TESTAMENTARY PETITION NO.890 OF 2021**

Meraj Begum Widow of Afzal Ali Khan ...Petitioner

V/S

Nizam Mir Osman Ali Khan Asif Jah (Deceased) ...Respondents

Mr. Amjith M. Anandhan a/w Mr. Rohan Dilip Kaiche for Applicant.
Mr. P. V. Nichani i/by M/s. P. V. Nichani & Co for Petitioners in
TP/24/2018.

CORAM : R. I. CHAGLA, J.
DATED : 26th OCTOBER, 2021.

P.C.

Heard learned counsel for the Parties.

2. By this Application, the Applicant is seeking rejection of the Testamentary Petition No.24 of 2018.

3. The Applicant has stated that the deceased namely Mr. Nizam Mir Osman Ali Khan Asif Jah @ Nawab Mir Osman Ali Khan Bahadur expired on 24th February 1967 at Hyderabad, Telangana State, India. The Applicant states that the deceased had two sons namely Nawab Zulfekhar Jah Bahadur who expired on 26th June 1967 and his brother Nawab Bohazzad Jah Bahadur who has also expired, the date has not been mentioned.

4. The Applicant states that the husband of the Applicant namely Afzal Ali Khan s/o Nawab Zulfekhar Jahan Bahadur had filed Petition bearing Testamentary Petition No.2118 of 2017 for grant of Letters of Administration to the property and credits of the said deceased. The husband of the Applicant was issued grant of Letter of

Administration 30th August 2019 to the property and credits of the said deceased including the subject property. The husband of the Applicant expired on 8th March 2020 without administering the subject property. The Applicant has filed a Petition for letters of administration De-Bonis-Non with letter of administration to the property and credits of the said deceased bearing Testamentary Petition No.890 of 2021. In the Testamentary Petition No.890 of 2021, an objection has been raised by the Additional Registrar/ Additional Prothonotary and Senior Master that Testamentary Petition No.24 of 2018 and Testamentary Petition No.2524 of 2019 is pending before this Court and therefore to obtain necessary directions from this Court.

5. In view thereof, the present Interim Application has been taken up for rejection of the Testamentary Petition No.24 of 2018.

6. The learned counsel appearing for the Applicant has stated that the Testamentary Petition No.24 of 2018 has been filed through the power-of-attorney holder on 6th January 2018 and Testamentary Petition No.2524 of 2018 has been filed through the

power-of-attorney holder on 14th October 2019.

7. Insofar as the Testamentary Petition No.24 of 2018 is concerned, the power-of-attorney holder has expired and no Application has been made by the fresh power-of-attorney holder who is intending to come in his place. In any event, under Section 279 of the Indian Succession Act, 1925, there is no mention in the Testamentary Petition No.24 of 2018 that there has been no Application made to any other Court for grant of letters of administration of the same estate and which intends to have effect throughout the whole State. Any Application made for addition of such statement in the Petition for grant of letters of administration is liable to be rejected.

8. He has submitted that it is settled law that another Petition for the same grant of letters of administration to the property and credits of the said deceased cannot be filed in view of the earlier grant of letters of administration. Thus, in view of the earlier grant of letters of administration, on 30th August 2019, the Testamentary Petition No.24 of 2018 for the grant of letters of administration of the

same properties and credits of the said deceased, could not have been filed and/or entertained. He has accordingly submitted that this Court reject the Testamentary Petition No.24 of 2018.

9. The learned counsel appearing for the Petitioners in Testamentary Petition No.24 of 2018 has stated that a fresh power-of-attorney holder intends to make an Application to substitute the earlier power-of-attorney holder who has expired and who had filed the Petition. He has submitted that the grant of the letters of administration dated 30th August 2019, was passed without consulting the other heirs of the deceased and/or obtaining their consent and accordingly states that an Application for revocation of grant of letters of administration shall be filed and is requested for a short date.

10. Having considered the submissions, since the letters of administration were granted to the husband of the Applicant on 30th August 2019, the Testamentary Petition No.24 of 2018 which was filed on 14th October 2019 for the same grant of letters of administration is not maintainable. This Testamentary Court cannot

grant letters of administration in respect to the same property and credits of the deceased, which have already been granted to the Petitioner in Testamentary Petition No.2118 of 2017. Thus, the Testamentary Petition No.24 of 2018 is to be dismissed. An opportunity is granted to the Petitioner in Testamentary Petition No.24 of 2018 to take out an Application for revocation of grant of letters of administration in favour of the husband of the Applicant and which shall be taken out within a period of two weeks from the date of this order. Hence the following order:

- (i). The Testamentary Petition No.24 of 2018 is dismissed. There shall be no order as to costs.
- (ii). The Testamentary Petition No.890 of 2021 shall be listed on board on 17th November 2021, on which date if the Application is filed by the Petitioners for revocation of grant of letters of administration, the Application shall also be placed on that date.

(R. I. CHAGLA, J.)