

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION (L) NO. 139 OF 2019
IN
TESTAMENTARY SUIT NO. 175 OF 2013
IN
TESTAMENTARY PETITION NO. 551 OF 2013**

Milind Vishwanath Chalke

...Applicant (Orig.
Defendant No.1)

In the matter between

Smita Ajay Yeole

...Plaintiff (Orig.
Petitioner No.2)

Versus

Milind Vishwanath Chalke & Ors

...Defendants

**Mr Ashish Kamat, with Mr Ashwin Bhadang, Ms Kinjal Shah & Mr
Kyrus Modi, i/b M/s Rashmikanth And Partners, for the Plaintiff.
Mr Durgesh Kulkarni, for the Applicant/Defendant No.1.
Mr Ashok Saraogi, for Defendant No.2.**

**CORAM: G.S. PATEL, J
DATED: 15th July 2019**

PC:-

1. By consent the Motion is taken up for hearing and final disposal. The Motion is by the 1st Defendant, Milind Vishwanath Chalke. It seeks the following reliefs:

(a) That pending the hearing and final disposal of the present Suit, this Hon'ble Court be pleased to direct the Administrators of the Estate of the Deceased to advance a sum of US\$ 23997.48 approx. Rs.16,79,824/- (Rupees Sixteen Lac Seventy Nine Thousand and Eight Twenty Four Only) from the estate of the deceased towards the payment of fees of the daughter of the Defendant No.1 so as to enable her to pursue her Masters Program in Kinesiology on such terms and conditions as this Hon'ble Court may deem fit and proper;

(b) Pending the hearing and final disposal of the present Notice of Motion, this Hon'ble Court be pleased to pass an order and direction directing the Administrators of the estate of the deceased to release a sum of US\$ 23997.48 approx. Rs.16,79,824/- (Rupees Sixteen Lac Seventy Nine Thousand Eight Hundred Twenty Four only);

2. The amount in these prayers is required for payment to a foreign university, namely, Miami University, in Florida, United States where Milind Chalke's daughter Arushi has gained admission to a Masters programme.

3. Mr Kamat on instructions from the Plaintiff (who is Milind Chalke's sister), states that the disbursement may be allowed from the estate funds by the two Administrators appointed but strictly on a without prejudice basis, keeping open all rights and contentions, including that the amounts so disbursed will be reckoned for adjustment in any final accounting while attempting a settlement of the disputes and a distribution of Vishwanath Chalke's estate. I believe this is a reasonable statement and should be accepted.

4. I must also note this order cannot and will not serve as a precedent for any future applications for such relief. The Motion itself is restricted to the amount required for one semester.

5. Since Mr Kamat's statement is noted and forms the basis of the present order, that by itself will not entitle either Milind Chalke or Arushi or the 2nd Defendant (the mother of Milind Chalke and the Plaintiff, and therefore Arushi's grandmother) to make an application for disbursement of any amount for subsequent semesters.

6. Noting and accepting this statement, the Motion is disposed of with a request to the Administrators to release the amount of Rs. 16,79,824/- to the 1st Defendant at the earliest possible from the estate funds in their hands.

(G. S. PATEL, J)