

dik

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INVESTATE JURISDICTION
IN ITS COMMERCIAL DIVISION**

Digitally
signed by
Dhanappa
I. Koshti
Date:
2020.10.27
13:40:39
+0530

**INTERIM APPLICATION NO. 2436 OF 2020
IN
TESTAMENTARY SUIT NO. 197 OF 2016
IN
TESTAMENTARY PETITION NO. 205 OF 2015
A/W
TESTAMENTARY SUIT NO. 110 OF 2016
IN
TESTAMENTARY PETITION NO. 206 OF 2015**

Sayaji U-BA Khin Merorial Trust	...Applicant
In the matter of	
Kaushalyaben Natverlal Parekh	...Deceased
 Rajendrandra Natverlal Parikh	 ...Petitioner.

.....

Mr Siddhesh Bhole i/b SSB Legal and Advisory for the applicant.
Ms. Gauri Sawant for the petitioner.
Mr. Milind Narvekar, Administrator is present.

.....
CORAM : B. P. COLABAWALLA, J.
(Through Video Conferencing)
26th OCTOBER, 2020.

P.C. :

This Interim Application is filed seeking a direction to the office of the Administrator / Official Assignee to not pass any order or direction with respect to the sale of a plot of land bearing No.33 situated at Gat. No. 359/2, 342, 343 village Talegaon, Igatpuri,

District :- Nashik. A further direction is also sought that the said plot of land be excluded from the list of assets of Mrs. Kaushalyaben Natverlal Parikh (the deceased) and all the orders of sale passed by the office of the Administrator / Official Assignee be set aside.

2 It is the case of the applicant that they were in settled possession of the said plot of land and they were dispossessed when the Administrator put up his board that he was in possession, and which board was put up pursuant to an order of this Court dated 11th December, 2019.

3 After hearing the learned advocate on behalf of the applicant, I am clearly of the view that this prayer cannot be granted in Testamentary jurisdiction. The aforesaid directions sought are on the basis that the applicant is the owner of the said plot of land and the deceased had gifted the same to the applicant. This, therefore, clearly is an issue of title. It is now well settled that the question of title cannot be decided in Testamentary jurisdiction. In these circumstances, the prayers sought for in the interim application are wholly misconceived.

4 It is, however clarified that the applicant is at liberty to

file their independent substantive proceedings to establish their title on the said plot of land. If such proceedings are filed and any interim application is taken out therein, the same shall be decided on its own merits and in accordance with law. All contentions of all parties are expressly kept open in that regard. Subject to this clarification, the interim application is dismissed. No order as to costs.

5 This order shall be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned shall act on production by fax or e-mail of a digitally signed copy of this order.

(B. P. COLABAWALLA ,J.)