Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
INTERIM APPLICATION 82 OF 2021
IN
TESTAMENTARY PETITION NO. 1030 OF 2006A

Lakshmi Lalit Kadam …Petitioner
And
Rajendra Rao alias Rajendra Gopalkrishna Rao …Deceased

Mr Prabhu Velar, *for the Applicant/Petitioner.*

CORAM: G.S. PATEL, J
(Through Video Conferencing)
DATED: 8th April 2021

PC:-

1. Heard through video conferencing.

2. The Interim Application seeks dispensation with a requirement of the Registry to provide surety justifying the share of an heir who has not consented to the grant. Now the Petition points out that one Ashok Goplakrishna Rao, a brother of the deceased and admittedly an heir, has neither consented nor opposed. His whereabouts are not known.

3. Mr Velar submits that it is not possible for the other heirs or the Petitioner to provide surety for the share of Ashok Rao in the entirety of the estate. Item 1 in the schedule is a flat. It is estimated at Rs. 20 lakhs in the Schedule, but today it will be worth several crores and to expect surety for one-third of this is not practicable.

4. Mr Velar suggests instead that his client will give an undertaking that the flat will be preserved in its entirety. No part of it will be disposed of nor alienated without specific leave of the Court. As and when a buyer is sought and found, the share of Ashok Rao will be set aside and deposited in Court. The other assets in the estate are all mutual funds, bank accounts, etc. On the undertaking by the Petitioner to deposit one-third of the sale proceeds or realizations from liquidation of these assets, the requirement may be dispensed with.

5. I will accept this undertaking. The Petitioners will file a separate undertaking in Court. The Petitioners are to inform the Prothonotary and Senior Master of every step that they are taking towards liquidation of the mutual funds and realization of bank accounts and will file an Affidavit when items 1 to 8 are realized. One-third of the total amount realized will be deposited in Court along with a statement of account. On deposit, that amount will be invested in the usual manner. Ashok G Rao, or his heirs, may at any time thereafter apply for withdrawal of the amount deposited and accrued interest.

6. The Interim Application is disposed of in these terms. There will be no order as to costs.

7. All concerned will act on production of an ordinary copy of this order.

(G. S. PATEL, J)