

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
INTERIM APPLICATION NO. 623 OF 2021
IN
TESTAMENTARY PETITION NO. 2465 OF 2019**

Shyni Babu	...Petitioner
<i>And</i>	
VK Bindu Lal Babu Alias VK Bindulal Babu	...Deceased

**Mr Sunil A Vyas, with Dipti Das, i/b Fox Mandal & Associates, for
the Petitioner/Applicant.**

**CORAM: G.S. PATEL, J
(Through Video Conferencing)**

DATED: 16th June 2021

PC:-

1. Heard through video conferencing.

2. The Interim Application seeks reliefs in respect of the estate of one VK Bindu Lal Babu who died on 13th January 2018. The deceased was ordinarily resident in Vasai Virar city and left property within Greater Mumbai and Maharashtra. He left no Will. None has been found despite diligent search. The deceased was survived by his 43-year-old widow, their 18-year-old daughter and their minor

eight-year-old son. Each is entitled to a one-third undivided share in the estate of the deceased.

3. The immediate cause the Interim Application is to permit the Petitioner to collect the amounts due to the deceased as compensation from the National Insurance Company. The amount is substantial: Rs. 4,60,78,779.63. There are certain bank accounts as well.

4. The Petitioner says in the Interim Application that she will collect the funds and ensure that a one-third amount is set aside for, given to or dealt with according to instructions of her adult daughter, Bipasha. So far as the minor son Sushant is concerned, the undertakings in the Application are accepted as undertakings to the Court.

5. So far as the question of dispensing with the surety, I have already held in *Madhuri Dattaprasad Pitre*¹ that such a requisition cannot be raised by the Registry when the Petitioner is the birth parent of the minor in question. It is settled law that a birth / biological parent is the guardian of both the person and the property of the minor. No question arises of seeking surety or justifying the surety for the minor's share. That requisition is thus dispensed with.

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

¹Testamentary Petition No. 1701 of 2017, decided on 6th April 2021.

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

(G. S. PATEL, J)