

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION**

**INTERIM APPLICATION NO. 1604 OF 2021
IN
TESTAMENTARY PETITION NO. 2056 OF 2019**

Kamlakar Mhatre ... Applicant/Original Petitioner

And

Dinanath Raghunath Mhatre ... Deceased

Mr. Mahesh Pol for the Applicant.

CORAM : R.I. CHAGLA, J.

DATED : 11th OCTOBER, 2021.

P.C. :

1 Heard the learned Counsel for the Applicant.

2 By this Interim Application, the Applicant is seeking permission to carry out amendment in schedule of assets of movable and immovable properties of the deceased in the State of Maharashtra as mentioned in Schedule at Exhibit-C to the Petition. The Applicant is further seeking permission to replace the schedule of assets of movable and immovable properties of the deceased in the State of Maharashtra annexed in the probate dated 27.07.2020 as per the schedule at Exhibit-C-1 to the Interim Application.

3 The Applicant has in the Interim Application stated that due to oversight and genuine mistake, the details and proper description, with respect to the shares of the deceased in some of the movable and immovable properties owned, possessed and/or to which the deceased was entitled at the time of his demise had been wrongly mentioned in Schedule 1 as compared with the details and description of the said property mentioned in the last Will and Testament dated 03.11.2018. The correct details and description of the movable and immovable properties held by the deceased along with his brothers had also not been properly mentioned in schedule-1 annexed to the Petition when compared with the details of description of the said property mentioned in the last Will and testament dated 03.11.2018. It is stated that the Probate Petition was allowed by this Court on 15.01.2020. Thereafter, the Applicant discover the errors in the details and description with respect to the shares of the deceased in some of the movable and immovable properties as well as the errors in the details and description of the undivided rights held by the deceased along with his brothers in some of the movable as well as immovable properties. This was discovered in March 2020 after the probate Petition was allowed.

4 Applicant has further stated that due to Covid-19 situation, there has been some delay in moving the Interim Application.

5 Having considered the averments made in the Interim Application, I am satisfied that the relief sought for in Interim Application for carrying out the amendments are required to be granted. Hence, the following order is passed :

- i) Interim Application is allowed in terms of prayer clause (a). Applicant shall carry out the amendment in the schedule of assets of movable and immovable properties of the deceased in the State of Maharashtra as per the Schedule at Exhibit-C in the Interim Application.
- ii) The Applicant is allowed to replace the schedule of assets of movable and immovable properties of the deceased in the State of Maharashtra annexed in the grant of probate dated 27.07.2020 as per the schedule at Exhibit-C1 to the Interim Application.
- iii) The said amendments in (i) and (ii) above shall be carried out in the Petition and in the grant of probate, within a period of four weeks from the date of this order.
- iii) Interim Application is accordingly disposed of.

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(R.I. CHAGLA, J.)