

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY SUIT NO. 9 OF 2021**

IN

TESTAMENTARY PETITION NO. 784 OF 2020

Pratik Mohit Kothari ...Plaintiff
Versus
Bharat K Damani ...Defendant

WITH

TESTAMENTARY SUIT NO. 10 OF 2021

IN

TESTAMENTARY PETITION NO. 785 OF 2020

Shephali Mormare Pratik Mohit Kothari ...Plaintiff
Versus
Bharat K Damani ...Defendant

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by Shephali
Mormare
Date: 2021.03.05
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**Mr Mayur Khandeparkar, with Mr Ativ Patel, i/b AVP Partners, for
the Plaintiff.**

Mr Shreeganesh Khaire, for the Defendant.

**CORAM: G.S. PATEL, J
DATED: 4th March 2021**

PC:-

1. A few corrections are required to the order of 18th February 2021. Shobhana, the wife of Kantilal Gulabrai Damani, died after him. The sentence in the last line of paragraph 1 is an error. Further, it seems that Kantilal owned one of the two flats in the Shreepati Arcade. The other flat stood in Shobhana's name. These corrections are accepted by both sides.
2. Mr Chirag Kothari is present at the hearing today over the video conferencing link. Pratik Kothari is present in Court as are Bharat Damani and Ms Manisha Kothari.
3. Mr Khaire confirms that Bharat Damani has paid off all dues of the society i.e. an amount of Rs. 3,12,985/- towards maintenance charges and Rs.1,25,868/- towards the major repair funds. There is a no dues certificate of 2nd March 2021 from the society. A copy is retained on record and marked "X1" collectively, for identification along with a copy of the MCGM of the property tax bills.
4. The originals/first copies are given to Mr Khandeparkar in Court today.
5. As noted in the order of 18th February 2021, Bharat is occupying both Flat Nos. 801 and 802. He has indicated his preference to continue in occupation of Flat No. 802. It seems that Flat No. 802 does not have an independent kitchen and it will take him some time to make the necessary arrangements. He requests a period of four weeks to vacate Flat No. 801. I will give him slightly

longer, until 19th April 2021. Mr Bharat Damani will have to obtain the necessary permissions for the interior work at his own costs.

6. The partition or separating wall between the two units will be put up by the parties strictly in accordance with the sanctioned plan. The parties will bear the costs of this partition wall equally. A copy of this order is to be given to the authorities concerned in the MCGM including a 'D' ward and in the Buildings Proposals Department. The MCGM is directed to accord the necessary permissions without any objections, provided that the proposed work conforms to the sanctioned plan.

7. As previously agreed, the testamentary petition which is for Letters for Administration with Will annexed will stand dismissed as unconditionally withdrawn. Mr Chirag Kothari and Mr Pratik Kothari agree that they will not make any claim under the Will in question. The statement is noted and accepted as an undertaking to the Court.

8. This order is by way of a family settlement. For the purposes of property tax, title registration and transmission/transfer a copy of this order along with the 18th February 2021 order may be lodged for registration as such.

9. The Shreepati Arcade CHSL is directed to expeditiously grant all necessary permissions to give effect to this order.

10. Consequently Flat No. 801 will stand in the name of Ms Manisha Mohit Kothari. Flat No. 802 will stand in the name of Mr Bharat K Damani. The original title documents for each of the flats will be retained by the parties entitled thereto. If the Kothari family has the title documents to Flat No. 802 these will be handed over to Mr Khaire on behalf of Mr Bharat Damani within one week from today.

11. Both Testamentary Petitions and Testamentary Suits are disposed of in these terms. No costs.

12. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production of a digitally signed copy of this order.

(G. S. PATEL, J)