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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
JUDGE'S ORDER NO. 42 OF 2021
IN
TESTAMENTARY PETITION NO. 866 OF 2019**

Dipali Apurva Mehta	...Petitioner
<i>Versus</i>	
Apurva Bhaskarraai Mehta	...Deceased

**Mr Naushad Engineer, with Shashwat Rai, i/b Keystone Partners, for
the Petitioner.(through VC)**

**CORAM: G.S. PATEL, J
DATED: 30th March 2021**

PC:-

1. The Judge's Order has been filed to comply to the extent possible with the requisition from the Registry.

2. The Petitioner seeking Letters of Administration is Dipali Apurva Mehta. She is today about 49 years old. Her husband, Apurva, died in Muscat, Oman on 7th August 2016, well before his time, of a sudden heart attack. Dipali was bereaved and widowed at a very early age. Apurva had only three heirs: Dipali, his widow; his mother, Sarojbala; and Dipali and Apurva's minor son, Hriman, today about 11 years old. Apurva died intestate.

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3. It seems that Apurva owned a residential flat No. 801, 8th Floor, Sushil Building, Behind Arya Samaj, Sir VP Road, Santacruz West, Mumbai 400 054 and some other movable properties. Hriman has an undivided one-third in his father's estate.

4. The Registry has demanded that a surety be provided justifying the one-third share of the minor Hriman in Apurva's estate. This includes the flat in question. Dipali does not have the wherewithal to provide a cash surety. She is now a single parent, and has to care for Hriman and, presumably, her aged mother-in-law. Hence this application, to transfer a one-third share in the flat to Hriman's name in lieu of justifying surety.

5. Dipali has more than enough trouble as it is. There is no reason to make such a demand of her. That would be uncaring, heartless and unjust. She has to tend to Hriman's needs, educational, medical, health and so on; and these needs will only grow over time. In addition, she will have to be a caregiver to her mother-in-law at least to some extent. She must herself find a source of income, no easy thing in these particularly difficult times. Even effecting such a transfer will involve costs and expenses, apart from perhaps stamp duty and registration charges. In any case, Dipali is correct when she submits, in her affidavit in support of this Judge's Order, that the mere grant of a Letters of Administration does not divest the minor, Hriman, of his share in his father's estate.

6. In paragraph 15, Dipali offers an undertaking that she will not dispose of, alienate, sell or create any third party rights in respect of

Hriman's one-third share without consent or prior permission of this Court.

7. I am dispensing with the requisition. Instead I will accept her undertaking in paragraph 15, and also require a specific undertaking that she will safeguard the minor's financial, educational, health and all other interests and provide for him, including his education, medical and other needs from the estate including the minor's share in that estate. I will also accept an undertaking that should she ever be required to sell this residential flat, she will first obtain leave of the Court to alienate the minor's share, and that this will only be done for legal necessity as required in law. Dipali will need to file an undertaking in these terms. That will be sufficient.

8. The Judge's Order need not receive a signature in the terms in which it is currently framed.

9. For completeness, a copy of this order as also a copy of the undertaking that Dipali is to file is to be given to the Cooperative Housing Society for its record.

10. The Judge's Order is disposed of in these terms. No costs.

11. 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)