

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
INTERIM APPLICATION (L) NO. 5904 OF 2021
IN
TESTAMENTARY PETITION NO. 2356 OF 2019**

Rambabu Kunbi	...Petitioner
<i>And</i>	
Gangadhar Babu Kunabi	...Deceased

**Ms Seema Hunnurkar, i/b Seema Hunnurkar & Associates, for the
Petitioner.
Mrs Chandan Bhatt, In-charge of Testamentary Department, is
present.**

**CORAM: G.S. PATEL, J
DATED: 17th March 2021**

PC:-

1. The grant was issued on 6th January 2021. It was for Letters of Administration. The Interim Application seeks leave to sell one of the properties in terms of the draft sale deed at Exhibit 'B' to the Interim Application.

2. The Interim Application is made absolute in terms of prayer clause (a). No costs.

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3. I must note that I am somewhat surprised that these applications for leave to sell immovable property following the grant of Letters of Administration are in the form of an interim application. There is nothing 'interim' about the relief that is sought. The grant has already been issued. It is only to comply with one of the conditions of the grant that such leave is required. There is also no opponent in such proceedings. The correct form for such an application must take as for Judge's Order with a supporting affidavit in which all particulars are to be set out. If the Court has any query, this can be answered by the Advocate or set out in a further affidavit. Certainly there is no cause for an 'interim application'. This would lead to all kinds of inconsistent results because this interim application conceivably is the one interim application that can never be served although service is a requirement of all interim applications. Lastly, as I noted, there is no order that can be made on such an interim application that can surely be said to be interlocutory or interim. It is a further order following the final grant and, therefore, cannot taken the form of an interim order on an interim application.

4. Consequently, all such applications for leave to sell, mortgage, etc immovable property in terms of the grant will need to be by way of Judge's Order with a supporting affidavit that must have all particulars.

5. A copy of this order may be send to Mrs Chandan Bhatt, In-charge of the Testamentary Department.

6. 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)