

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO. 3082 OF 2018
WITH
INTERIM APPLICATION (L) NO. 13425 OF 2021
IN
TESTAMENTARY PETITION NO. 3082 OF 2018
WITH
WILL NO. 1200 OF 2018
IN
TESTAMENTARY PETITION NO. 3082 OF 2018**

Ashok Narayan Kompelli

...Petitioner

Sumati Sakharam Pawar

...Deceased

Ms Priyanka Kothari, *with Waquar Ahmad, i/b Waquar Ahmad, for the Petitioner/Applicant.*

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

DATED: 2nd July 2021

PC:-

1. Heard through video conferencing.

2. Pursuant to the order of 18th June 2021, Ms Kothari has filed a fresh Interim Application to recall the order of 11th October 2019 by the Additional Prothonotary and Senior Master. That Interim Application is listed.

3. By that order, the Prothonotary and Senior Master went into a completely impermissible discussion as to whether or not the deceased had a right to bequest the immovable property in question. The Petition itself is for grant of Letters of Administration with Will annexed. It is a settled law that such Petitions and Grants are not concerned with and do not decide questions of title. The only question is whether the Petitioner has been able to prove the Will in its solemn form i.e. to test whether the deceased made the Will of his or her own volition while in a disposing state of mind, memory and understanding, and whether the Will confirms to the requirements of a valid Will under the Indian Succession Act. That is all, and that is the whole of it. Whether the deceased could or could not validly bequeath this or that property is of no concern to the Judge hearing the testamentary matter if contested. It is certainly not the concern of the Registry. The order of 11th October 2019 is entirely unsustainable.

4. The result of that order was that on 26th February 2020 the successor Additional Prothonotary and Senior Master was unable to proceed with the Grant.

5. Both orders are therefore set aside. The Petition is uncontested and the Registry will proceed to issue the Grant

without raising further requisition as to the contents of the Will, and subject only to a checking of the usual requirements.

6. That Grant is to be issued at the earliest possible and on a priority basis. I request Ms Chandan Bhatt to attend the matter personally and if possible, subject to just exceptions, to have the Grant issued on or before 23rd July 2021.

7. The Interim Application is disposed of accordingly.

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

(G. S. PATEL, J)