

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

INTERIM APPLICATION NO. 5216 OF 2022

IN

PETITION NO. 1052 OF 2021

Kusum Laxman Nikumbh

...Applicant /Petitioner

Vs.

Master Varun Vilas Mahajan through
his Mother smt. Vidya Mahajan and Anr.

...Respondents

Mr. Bhalchandra G. Saraf a/w. Samiksha Gopale for the Applicant/Petitioner.
Adv. Shrutika Chowdhari for Respondent No. 1.

CORAM : ARIF S. DOCTOR, J.

DATE : 7th FEBRUARY, 2023

P.C. :

1. The present Interim Application has been filed seeking a direction to Respondent No.2 i.e. Admn. officer, Dy. Commissioner of Police Motor Transport, Mumbai, to hand over an amount of Rs. 12,00,000/- which is lying with Respondent No. 2 under various dues of Vilas Laxman Nikumbh (the deceased).

2. The deceased Vilas Laxman Nikumbh passed away on 5th June, 2018 leaving behind as his only legal heir and next of kin the Applicant (his mother)

and Respondent No. 1 (his son).

3. Learned Counsel today by consent submitted that there is no dispute amongst them that the Petitioner and Respondent No. 1 are entitled to 50% share of the amount that is lying deposited with Respondent No. 2. They confirmed that there are no other claimants or legal heirs who would be entitled in this amount, including the divorced wife of the deceased.

4. In light of this and the undertaking given by the Applicant in Paragraph 5 of the Interim Application, I deem it fit and in the interest of justice, I allow the present Interim application.

5. Interim Application is therefore, allowed in terms of prayer clause (a) which reads as under-

(a) That this Hon'ble Court may direct the Respondent No. 2 to handover 50% of the amount of various dues with interest standing in the name of the deceased and more particularly stated in the schedule of Debts of the Petition to the Petitioner herein.

6. It is made clear that the Respondent No. 2 if for any other reason finds that this Interim Application does not by any means certify that the amount claimed is in fact the amount lying with Respondent No. 2 and to make payment of the same after all requisite compliance as may be required by Respondent No. 2 are furnished by the Applicant and Respondent No. 1. The Interim Application is therefore disposed of in terms of the above order.

7. Office to proceed with the issuance of certificate after all requisite compliance and requisitions are made by the Applicant.
8. Interim Application is therefore disposed of.

(ARIF S. DOCTOR, J)