

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

INTERIM APPLICATION NO.4299 OF 2022

IN

TESTAMENTARY SUIT NO.44 OF 1996

IN

TESTAMENTARY PETITION NO.383 OF 1996

Ila Navin Rathod and ors. : Applicants.

In the matter between

Navin Bechardas Rathod (Now Deceased) : Petitioner.

Versus

**Gangaben Bechardas Rathod (Since deceased)
and others : Respondents.**

And

Ila Navin Rathod & ors. : Proposed Petitioners.

Ms.Dhanashree Hublikar i/by Mr. Yogendra M Kanchan for the Applicants.

Ms. Nilima Cosarvagod i/by Mr. S U Pandey for Respondent Nos.2, 3(a) & 3(b).

CORAM : ARIF S. DOCTOR, J.

DATE : 28th MARCH 2023

P.C. :

1 The present Interim Application seeks to amend Petition No.383 of
1996.

2 Learned Counsel appearing on behalf of the Applicants submits that Applicants are the wife and children of the deceased Petitioner. She submits that the Petitioner – Navin Bechardas Rathod has passed way on 18th March 2022 leaving behind him the Applicants as his only legal heirs and next of kin according to Hindu Succession Act, 1956. It is thus that the present Interim Application has been filed.

3 Learned Counsel appearing on behalf of the Respondent No.2, 3(a) and 3(b) does not oppose the amendment.

4 However the Court noticed that the present Petition is one for Probate of the last Will and Testament of one Bechardas Karsandas Rathod who died on 27th July 1983. The Petitioner was the sole executor of the said Will of the deceased. Given this, it was put to Learned Counsel for the Applicants that the Petition for Probate would not be maintainable as the sole executor under the Will has passed away.

5 Learned Counsel for the Applicants submits that on the Application for amendment being allowed, the Applicants would take steps to convert Testamentary Petition No.383 of 1996 into a Petition for Letters of

Administration with Will annexed.

6 In view thereof, I find no impediment in allowing the present Interim Application. The present Interim Application is therefore allowed in terms of prayer clauses (a) and (b) which read as under :-

“(a) That the Hon’ble Court be pleased to permit/allow the Applicants to amend the Petition and bring the Legal Heirs of the Deceased Petitioner on record as Proposed Petitioner Nos.1(a) to 1(c) in the above matter in place of the Deceased Petitioner as shown in the Schedule herein;

(b) Consequential amendments be allowed.”

7 Learned Counsel for the Applicants is permitted to effect necessary amendment to convert Testamentary Petition No.383 of 1996 for Probate into a Petition for Letters of Administration within a period of two weeks from today.

8 The present Interim Application is accordingly disposed of.

(ARIF S. DOCTOR, J.)