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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1445 OF 2025

Narendra Rajaram Parab

... Petitioner

Versus

Nil

... Respondent

Mr. Sandesh Deshpande, for the Petitioner.

CORAM : M. S. KARNIK, J.

DATED : 9th MAY, 2025.

P.C.:

1. Heard learned counsel for the petitioner. The challenge in this petition is to the order dated 31/01/2021 passed by the 4th Joint Civil Judge, Senior Division, Kalyan in Civil Miscellaneous Application No.221 of 2018 filed by the petitioner for grant of letters of administration in respect of shares which have specifically been granted in favour of the petitioner. The petitioner's aunt executed registered Will and bequeathed property in favour of the petitioner on 01/01/1991. After the death of the petitioner's aunt i.e. Smt. Suniti Dattatray Parab, the petitioner applied for grant of letters of administration vide application dated 25/11/2008. The said application was allowed and letters of administration was granted in favour of the petitioner on 08/12/2009. The petitioner once again made an

application for grant of letters of administration on 09/04/2018 as there were certain properties not included in the said Will. By the impugned order, the said application came to be rejected. The relevant portion of the impugned order reads thus :

“Heard Ld. Counsel. Perused all documents and earlier order. I found that applicant has received letter of administration in respect of registered Will dated 01/01/1991. The property which is mentioned in this application is not reflected in the above Will. Only because of Will and wish of the applicant, number of letter of administration cannot be granted. Considering above noted reason, I found that already letter of administration has been granted to the applicant and therefore, no need to allow this application. In view of above reason. I pass following order:

ORDER

The application is rejected. “

2. Learned counsel for the petitioner submitted that the shares mentioned in the application were standing in the name of deceased Smt. Suniti Dattatray Parab. It appears that the trial Court failed to consider the Will which at page no. 11 to the petition. It is specifically mentioned in the Will that property which is not mentioned will also be bequeathed in the name of the petitioner i.e. Narendra.

3. Learned counsel for the petitioner further invited my attention to the provisions of Indian Succession Act, 1925 (“the said Act”, for short) Sub-section (1) of Section 376 provides that a District Judge may, on the application of the holder of a certificate under this Part, extend the

certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein. Sub-section (2) of Section 376 of the said Act provides that upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation or transfer of, any security to which the certificate has been extended may be conferred, and a bond or further bond or other security for the purposes mentioned in section 375 may be required, in the same manner as upon the original grant of a certificate.

4. In the facts and circumstances of this case and in the light of the submissions made, it is more than clear that the Will specifically mentions that if any property is found which is not mentioned in the Will, the same will also be bequeathed to the petitioner. The petitioner is the only legal heir. In such circumstances, there was no difficulty in allowing the application as no prejudice would be caused if the application is allowed. The shares admittedly are standing in the name of Smt. Suniti Dattatray Parab.

5. In such circumstances, the impugned order is set aside. Civil Miscellaneous Application No. 221 of 2018 filed before 4th Joint Civil Judge, Senior Division, Kalyan is allowed.

6. The writ petition is disposed of.

(M. S. KARNIK, J.)