

HARSHADA H. SAWANT
(P.A.)

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

MISCELLANEOUS PETITION NO.384 OF 2025
IN
TESTAMENTARY PETITION NO.321 OF 2022

Hari Bhagwandas Talreja	.. Deceased
Bihari Bhagwandas Talreja	.. Respondent
IN THE MATTER BETWEEN:	
Hari Bhagwandas Talreja	.. Deceased
Kamlesh Hari Talreja and Anr.	.. Petitioners
Versus	
Bihari Bhagwandas Talreja	.. Respondent

WITH
TESTAMENTARY PETITION NO.2187 OF 2023

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- Ms. Vinali Bhaidkar a/w. Mr. Mohit Yadav, Advocates for Petitioner.
 - Mr. Prabhu Velar a/w. Ms. Bhakti Patil, Advocates for Respondent.
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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 15, 2025

P.C.:

1. Heard Ms. Bhaidkar, learned Advocate for Petitioner and Mr. Velar, learned Advocate for Respondent.

2. Miscellaneous Petition No.384 of 2025 is filed by two Petitioners namely Kamlesh Hari Talreja and Anita Hari Talreja being the son and wife of deceased Hari Bhagwandas Talreja seeking revocation of Grant of Letters of Administration to the property and credits of the deceased under Section 383 of the Indian Succession Act, 1925.

3. Briefly stated, Respondent – Bihari Bhagwandas Talreja is brother of deceased Hari Bhagwandas Talreja. Hari Bhagwandas Talreja expired on 19.11.2020. In the original Testamentary Petition No.321 of 2022, this Court on the plea made by Bihari Bhagwandas Talreja, brother of deceased issued Grant dated 10.01.2023. The Grant namely Letters of Administration was in respect of property and credits of deceased Hari Bhagwandas Talreja.

4. According to Petitioners when Testamentary Petition No.321 of 2022 was filed, it was averred in the Petition by Bihari Bhagwandas Talreja that deceased Hari Bhagwandas Talreja was not legally married and therefore a bachelor. Petitioners have averred that Respondent - Bihari Bhagwandas Talreja was fully aware about the fact that deceased Hari Bhagwandas Talreja was married to Petitioner No.2 and Petitioner No.1 was their son and that they lived together despite which he misrepresented and obtained the Grant of Letters of Administration from this Court to the exclusion of the legal heirs of deceased namely wife and son.

5. Petitioners would submit that they were not made party to the original Petition neither they receive any citation and notice from the High Court. Claim of Petitioners is that Respondent fraudulently, mischievously and with *malafide* intention made a false statement on oath in Miscellaneous Petition No.321 of 2022 seeking Grant of Letters

of Administration of estate of late deceased Hari Bhagwandas Talreja.

6. Ms. Bhaidkar would submit that during the lifetime of Hari Bhagwandas Talreja, he had executed a Will bearing registration No.BDR1/7731/2020 on 30.09.2020 and bequeathed his entire property and estate to his son Kamlesh Hari Talreja – Petitioner No.1.

7. It is further averred that Petitioners at the time of demise of Hari Bhagwandas Talreja were residing with him in Flat No.A/501, 5th Floor, Manish Sunflower Cooperative Housing Society Limited, four Bungalows, Andheri (West), Mumbai – 400 053. In the aforesaid circumstances, they have prayed for revocation of Grant dated 10.01.2023 issued by this Court in favour of Respondent (brother of deceased) which is solely based on suppression and misrepresentation.

8. Mr. Velar, learned Advocate appearing for Respondent would submit that it is true that deceased Hari Bhagwandas Talreja was residing with Petitioners separately. He would also submit that it is true that when the original Petition was filed for seeking Letters of Administration, it was stated therein that deceased was a bachelor.

9. Respondent - Bihari Bhagwandas Talreja is also present in the Court and with permission of the Court he has addressed the Court. Respondent has informed the Court that he is a senior citizen and his brother Hari Bhagwandas Talreja though was living with the Petitioner No.2, he was not legally married to her. He would submit

that since Grant has already been issued, this Court should not revoke the Grant considering the old age of Respondent and the fact that according to him, the entire family was living together with the deceased. He would therefore persuade the Court that revocation Petition be dismissed.

10. I have heard Ms. Bhaidkar, learned Advocate for Petitioner and Mr. Velar, learned Advocate for Respondent and with their able assistance perused the record of the case. Submissions made by them have received due consideration of this Court.

11. At the outset, it is seen that when Testamentary Petition No.321 of 2022 was filed by Respondent seeking Letters of Administration to the property of deceased Hari Bhagwandas Talreja, his brother Bihari stated therein that Hari Bhagwandas Talreja died intestate and despite diligent search, he had not found any Will made by him.

12. In the said Petition, there is no oblique reference to the Petitioners herein. The said Petition is bereft of even the mandatory statement that deceased Hari Bhagwandas Talreja was a bachelor and he died as a bachelor. All that is stated in the said Petition is that Respondent - Bihari Bhagwandas Talreja is the only sole surviving legal heir of deceased Hari Bhagwandas Talreja and nothing more. This was a clear misrepresentation. Rather it amounted to perjury.

Incidentally, the death certificate which is appended at Exhibit – A itself shows name of Petitioner No.2 as wife of deceased in the said death certificate which was relied upon by Respondent himself.

13. This *prima facie* shows the *malafide* act of Respondent in procuring the Grant from this Court by clear suppression. It is also seen that deceased Hari Bhagwandas Talreja was owner of and entitled to subject Flat No.A/501, 5th Floor, Manish Sunflower Cooperative Housing Society Limited, four Bungalows, Andheri (West), Mumbai – 400 053. It is seen that immediately after Grant was issued, on the strength of Grant, the Respondent made an attempt to transfer the said Flat onto his name as the sole legal heir of the deceased. It is further seen that Petitioners have filed proceedings for issuance of Probate on the basis of the registered Will prepared by the deceased Hari Bhagwandas Talreja. Petitioner No.1 is the son of the deceased whereas Petitioner No.2 is the wife of the deceased. Respondent has not acted *bonafidely*. He has misled the Court.

14. Considering the aforesaid facts, it is clearly concluded that original Testamentary Petition No.321 of 2022 was filed by Respondent on a completely false and *malafide* premise for obtaining the Grant only to secure substantive interest in the flat which belonged to the deceased to the exclusion of the Petitioners who are the son and wife of deceased.

15. Once the aforesaid conclusion is arrived at, there can be no impediment in allowing the present Miscellaneous Petition. The present Petition seeking revocation of original Grant therefore stands allowed in terms of prayer clauses (a) and (b) which read thus:-

“a) This Hon’ble High Court be pleased to revoke the Grant dated 10/01/2023 issued by this Hon’ble High Court in Testamentary Petition No.321 of 2022;

b) That the pending the hearing and final disposal of the Present Petition, the Respondent be restrained by an Order an Injunction of this Hon’ble Court from acting upon the Grant dated 10/01/2023.”

16. Grant dated 10.01.2023 stands revoked and cancelled. Respondent is directed to submit the original Grant dated 10.01.2023 issued by this Court to the Testamentary Department within a period of two weeks from today.

17. Needless to state that Testamentary Petition No.2187 of 2023 filed by Petitioner No.1 shall be proceeded with further strictly in accordance with law.

18. Miscellaneous Petition No.384 of 2025 is allowed and disposed in above terms.

H. H. SAWANT

[MILIND N. JADHAV, J.]

Digitally signed
by HARSHADA
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