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

**INTERIM APPLICATION (L) NO. 29628 OF 2023
IN
TESTAMENTARY PETITION NO. 1415 OF 2022**

Gabriel Mordecai Talkar	.. Applicant
<u>IN THE MATTER BETWEEN</u>	
Salome Benson Hyams	.. Deceased
Gabriel Mordecai Talkar	.. Petitioner

**WITH
INTERIM APPLICATION NO. 356 OF 2024
IN
TESTAMENTARY PETITION NO. 1414 OF 2022**

Gabriel Mordecai Talkar	.. Applicant
<u>IN THE MATTER BETWEEN</u>	
Salome Benson Hyams	.. Deceased
Gabriel Mordecai Talkar	.. Petitioner

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- Mr. Yogeshwar S. Bhate, Advocate for Applicant / Petitioner.
 - Ms. Pranali Raut, Advocate i/by Legal Catalyst for Caveator.
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CORAM : MILIND N. JADHAV, J.
DATE : DECEMBER 05, 2025.

P.C.:

1. Heard Mr. Bhate, learned Advocate for Petitioner and Ms. Raut, learned Advocate for Caveator.
2. The name of Advocate Ms. Pranali Raut appearing for the Caveator shall be shown on the Board. Court Associate to ensure that this order is conveyed to the Board Department.

3. Request is made by Mr. Bhate, learned Advocate appearing on behalf of Executor that estate of the deceased is one particular immovable property i.e. flat situated in Crystal Tower, Crystal Tower CHS Ltd., AOP, Plot No.20/26, St. Xavier's Lane, Dr. B.A. Road, Parel, Mumbai which is lying locked for the past more than 4 years.

4. Caveator before me is represented by Ms. Raut and Caveator is one of the beneficiary under the Will. Caveator is a distant relative of both the deceased husband and wife. They did not have any issue. Caveator resides in the same building wherein the flat is situated.

5. Mr. Bhate, learned Advocate persuades the Court that since the flat has never been opened, appropriate directions be passed. Interim Application No.356 of 2024 is filed for this very reason. He would submit that officer of the Court be appointed as Receiver / Commissioner to open the flat on a holiday in the presence of the Executor, the Caveator and brother of deceased so that panchanama / inventory can be taken of the contents of the said flat and appropriate report can be made so as to enable the Executor and Caveator to take further steps in accordance with law after obtaining further orders from the Court.

6. In view of the above situation, there can be no impediment in allowing the Interim Application No.356 of 2024. Interim Application stands allowed in terms of prayer clause 'a' with the

following further directions.

7. Associate of this Court, Mr. Arun Sirsat (Mob. No.9689419232) is appointed by this Court as Court Commissioner to visit the said flat and open the said flat on 14th December 2025 (Sunday) at 11:00 a.m. The Executor, Caveator and brother of deceased Mr. Aaron Daniel Benjamin shall all remain present. Both the Advocates before me shall ensure that their clients are informed and intimated about this order to remain present on 14.12.2025 at 11:00 a.m. They shall all co-operate with the Court Commissioner and identify the subject flat to the Court Commissioner.

8. Mr. Aaron Daniel Benjamin is present in Court. He informs that he has keys of the said flat. He however submits that some third party or may be even the Caveator has put a lock on the said locked flat. He submits that he does not know who has put the additional lock. If Caveator has put it, then he shall remove the same forthwith. After opening the flat and conducting the panchanama, flat will be locked and sealed by Commissioner and keys of the flat are directed to be deposited with the Prothonotary & Senior Master of this Court by the Commissioner.

9. Executor agrees to bear the fees of the Court appointed Commissioner which shall be fixed by the Court after the Report is made. Videography is also directed to be made of the panchanama and

contents in the flat. Commissioner can seek further directions if so required in his report.

10. Mr. Bhate, learned Advocate submits that the Society has also given a letter to the Executor to open the lock since it has remained locked for 4 years and therefore steps should be taken. Society Office bearers are also directed to co-operate for execution of this order.

11. In view of the above, both Interim Applications are disposed.

12. List both the Interim Applications on Board on **19th December 2025**. To be placed under the caption '**For Compliance**'.

[MILIND N. JADHAV, J.]

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