

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO. 1406 OF 2024

Tushar Niranjana Jamenis

...Petitioner

Vs.

Usha Durgaprasad Bakhle

...Respondent

WITH
CAVEAT (L) NO. 30554 OF 2024
WITH
WILL NO. 517 OF 2024

Adv. Swati Sawant for the Petitioner.

Adv. Malcolm Yaz i/by Shraddha Talkar for the Respondent.

Ms. Rekha Rane, Testamentary Registrar is present.

CORAM : ARIF S. DOCTOR, J.

DATE : 21ST JANUARY, 2025

P.C.:-

1. The matter is placed on board pursuant to a praecipe that has been filed by the Advocate for the Petitioner. The praecipe records that this Court had issued the grant of probate on 4th October, 2024 since on that date there was no Caveat filed to oppose the grant. It appears that after the order was passed by the Additional Prothonotary and Senior Master on 4th October, 2024, the Caveat in the present Petition was lodged in the department.

2. Learned Counsel points out that the citation was served upon the Caveators on 6th September, 2024 and as per Rule 401 and 402 of the Bombay High Court (Original Side) Rules a Caveator is to be lodged within 14 days from service of the citation. Admittedly, this has not been done. Additionally, there is also today no Affidavit in support of the Caveat filed in the prescribed time. There is no application seeking condonation of delay in filing of the Caveat. Hence, there was absolutely no impediment on 4th October, 2024 when the order issuing the grant came to be passed. Hence, in my view, the order issuing the grant has been correctly passed and has been passed keeping in mind the relevant provision of law.

3. Hence, Registry is directed to proceed with the issuance of grant of probate to the Petitioner.

(ARIF S. DOCTOR, J.)