

Amberkar

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

TESTAMENTARY PETITION NO. 2687 OF 2024

Pritilata Madhukar Borkar	.. Deceased
Deepti Prakash Valanj & Ors.	.. Petitioners
Ulhas Madhukar Borkar & Ors.	.. Caveators

WITH
JOT(L) 37240 OF 2024
WITH
CTS(L) 38866 OF 2024
WITH
IA(L) 993 OF 2025

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- Mr. Swapnil Narkar i/by Mr. Harshal Mirashi, Advocate for Petitioners
 - Mr. Amar Gharte a/w Ms. Aishwarya D. (not readable), Advocates for Caveators

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CORAM : MILIND N. JADHAV, J.
DATE : SEPTEMBER 17, 2025

P. C.:

1. Heard Mr. Narkar, learned Advocate for Petitioners and Mr. Gharte, learned Advocate for Caveators.

Interim Application (L) NO. 993 of 2025:-

2. Interim Application is filed for condonation of delay by the Caveators. There is delay of 3 months.

3. Considering the fact situation in the present case and also exigency, difficulties and disability of Caveators, I am inclined to condone the delay. Hence, delay stands condoned.
4. Interim Application is disposed.
5. Caveat Application is taken up for hearing forthwith.
6. On 10.09.2025, after hearing learned Advocate for Caveator following order was passed:-

"1. I have heard Mr. Gharte, learned Advocate for Caveators and Caveators are also present in Court. Petitioners before me are 4 siblings. They are seeking Letters of Administration together. Caveator No. 1 is the 5th sibling and Caveator No. 2 is her wife who were initially non-consenting members.

2. It is made clear that by issuing Letters of Administration, this Court does not determine entitlement to the property of deceased in favour of any legal heir. All that Letters of Administration decides is that legal heirs of the deceased are the legal heirs only and nothing more.

3. Today unfortunately Advocate for Petitioners is not present. Petitioner Nos. 1 and 2 are present in Court. I have heard Petitioner Nos. 1 and 2. Since their Advocate is not present, one opportunity is given to him and the matter will be fixed for hearing and passing orders on the next adjourned date. Whatever submissions learned Advocate for Caveator wants to make after taking instructions from Caveator, can be made on the next adjourned date.

*4. Stand over to **17th September, 2025.**"*

7. Mr. Gharte, learned Advocate for non-consenting Caveator would submit that the only anxiety and apprehension in the mind of the Caveator No. 1 is that as he is in occupation of the premises and present order should not be misused in any manner to drive him out from the house and the name of Caveator No. 1 should also be shown

as one of the legal heirs of the deceased. Petitioners have accepted that Caveator No. 1 is their sibling but according to them he would be entitled to 1/5th share only and merely because he is residing in the house belonging to the deceased, he cannot deprive the Petitioners of their shares.

8. Apprehension expressed by the Caveator *prima facie* appear to be genuine in the facts of the present case as they stand. Be that as it may as clarified my my previous order herein above, by issuing Letters of Administration, administration of Estate of the deceased is required to be governed by all legal heirs thereto which will include the Petitioners and Caveator No. 1 also. There is no question of removing the name of Caveator No. 2 form the list of legal heirs. Name of all 4 siblings who are Applicants before me and the name of the Caveator No. 1 who is the 5th sibling shall be specifically stated in the grant. Needless to state that any further steps required to be taken by the legal heirs for procuring their shares in the subject immovable property will be subject to the orders passed by the Civil Court in appropriate proceedings taken out by them. Needless to state that Caveator No. 2 is the wife of 5th sibling who is Caveator No. 1. Hence, name of Caveator No. 2 stands deleted in all respects. Only the name of Caveator No. 2 along with the 4 Applicants before me shall form part of the grant.

9. Caveat stands disposed of in the above terms.
10. Department to proceed further in the Testamentary Petition and issue the grant in accordance with law on due compliances.

[MILIND N. JADHAV, J.]