

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

**MISCELLANEOUS PETITION NO.240 OF 2025
IN
TESTAMENTARY PETITION NO.639 OF 2022**

Lady Jena Jamshedji Duggan	]	
alias Jina Jamshedji Dagan	]	... Deceased

- | | | |
|----------------------------------|---|-----------------|
| 1. Shireen Dinshaw Mistry |] | |
| Aged 63 years, Parsi |] | |
| Indian Inhabitant, residing at |] | |
| Sethna Building, 29-29A, Navroji |] | |
| Seth Street, Thakurdwar, |] | |
| Mumbai - 400 002. |] | |
| 2. Shapoor Dinshaw Toorkey |] | |
| Aged 82 years, Parsi |] | |
| Indian inhabitant, residing at |] | |
| 62, Shama Apartments, 138/1, |] | |
| Prendergast Road, Secunderabad |] | |
| - 500 003, Telangana |] | |
| 3. Dinshaw Maneck Mistry |] | |
| Aged 96 years, Parsi |] | |
| Indian inhabitant, residing at |] | |
| Sethna Building, 29-29A, |] | |
| Navroji Seth Street, Thakurdwar, |] | |
| Mumbai - 400 002 |] | |
| Executors of the last Will of |] | |
| Dr. Feroze Homi Duggan |] | ... Petitioners |

Versus

Bilkish Yunus Namakwala,	]	
aged 67 years, Muslim Sunni,	]	
Indian Inhabitant of Mumbai,	]	
Occupation: Housewife, residing at	]	
Orchid Tower, "A" Wing, 24 Floor,	]	
Flat No.2401, Belasis Road, Mumbai	]	
Central, Mumbai - 400 008.	]	... Respondent

**WITH
INTERIM APPLICATION (L) NO. 5597 OF 2025**

**IN
MISCELLANEOUS PETITION NO.240 OF 2025
IN
TESTAMENTARY PETITION NO.639 OF 2022**

Vandana Janardhan Salve nee	]	
Vandana Feroze Duggan	]	
Aged 53 years Occ, Nurse	]	
Indian Inhabitant, Residing at	]	
Room No.368, Room 11, Vishnu Patil	]	
Chawl, Near Shankar Mandir,	]	
Achanak Nagar Thane 400 612	]	... Applicant

In the matter of

Lady Jena Jamshedji Duggan	]	... Deceased
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|----|--|---|-----------------|
| 1. | Shrieen Dinshaw Mistry |] | |
| | Age: 63 Years, Parsi |] | |
| | Indian Inhabitant, residing at |] | |
| | Sethna Building, 4 th Floor, 29-29A |] | |
| | Navroji Seth Street, |] | |
| | Thakurdwar, Mumbai: 400 002 |] | |
| 2. | Shapoor Dinshaw Toorkey |] | |
| | Aged 80 years, of Secunderabad |] | |
| | Parsi Zoroastrian, Indian Inhabitant |] | |
| | Occupation Retired, Residing at 62] | | |
| | Shama Apartments, 138/1, |] | |
| | Prendergast Road, Secunderabad |] | |
| | 500003, Telangana |] | |
| 3. | Dinshaw Maneck Mistry |] | |
| | Aged 96 years, Parsi |] | |
| | Indian inhabitant, residing at |] | |
| | Sethna Building, 29-29A, |] | |
| | Navroji Seth Street, Thakurdwar, |] | |
| | Mumbai - 400 002 |] | ... Petitioners |

versus

Bilkish Yunus Namakwala,	]	
aged 66 years, Muslim Sunni,	]	
Indian Inhabitant of Mumbai,	]	
Occupation: Housewife, residing at	]	
Orchid Tower, Bellasis Road, Mumbai	]	
Central, Mumbai - 400 008.	]	... Respondent

**WITH
INTERIM APPLICATION (L) NO.12552 OF 2025
IN
MISCELLANEOUS PETITION NO.240 OF 2025**

Bilkish Yunus Namakwala,	]	
aged 66 years, Muslim Sunni,	]	
Housewife, residing at Flat No.2401	]	
24 th Flr A Wing, Orchid Tower,	]	
Bellasis Road, Mumbai	]	
Central, Mumbai – 400 008.	]	... Applicant

In the matter of

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|----|--|---|-----------------|
| 1. | Shrieen Dinshaw Mistry |] | |
| | Age: 63 Years, Parsi |] | |
| | at Sethna Building, |] | |
| | 4 th Floor, 29-29A |] | |
| | Navroji Seth Street, |] | |
| | Thakurdwar, Mumbai: 400 002 |] | |
| 2. | Shapoor Dinshaw Toorkey |] | |
| | Aged 80 years, of Secunderabad |] | |
| | Parsi Zoroastrian, Indian residing |] | |
| | at 62 Shama Apartments, 138/1, |] | |
| | Prendergast Road, Secunderabad |] | |
| | 500003, Telangana |] | |
| 3. | Dinshaw Maneck Mistry |] | |
| | Aged 96 years, Parsi |] | |
| | Indian Sethna Building, 4 th Floor, |] | |
| | 29-29A, Navroji Seth Street, |] | |
| | Thakurdwar, |] | |
| | Mumbai – 400 002 |] | ... Petitioners |

versus

Bilkish Yunus Namakwala,	]	
aged 66 years, Muslim Sunni Indian,	]	
Housewife, residing at Flat No.2401	]	
24 th Floor A Wing, Orchid Tower,	]	
Bellasis Road, Mumbai	]	
Central, Mumbai – 400 008.	]	... Respondent

**WITH
INTERIM APPLICATION (L) NO.11244 OF 2025
IN
MISCELLANEOUS PETITION NO.240 OF 2025**

Bilkish Yunus Namakwala,	]	
aged 66 years, Muslim Sunni,	]	
Indian Inhabitant of Mumbai	]	
Occupation Housewife, residing at	]	
Flat No.2401 24 th Floor A Wing,	]	
Orchid Tower, Bellasis Road,	]	
Mumbai Central, Mumbai - 400 008.	]	... Applicant

In the matter of

Lady Jena Jamshedji Duggan	]	... Deceased
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|----|--|---|-----------------|
| 1. | Shrieen Dinshaw Mistry |] | |
| | Age: 63 Years, Parsi |] | |
| | at Sethna Building, |] | |
| | 4 th Floor, 29-29A |] | |
| | Navroji Seth Street, |] | |
| | Thakurdwar, Mumbai: 400 002 |] | |
| 2. | Shapoor Dinshaw Toorkey |] | |
| | Aged 80 years, of Secunderabad |] | |
| | Parsi Zoroastrian, Indian residing |] | |
| | at 62 Shama Apartments, 138/1, |] | |
| | Prendergast Road, Secunderabad |] | |
| | 500003, Telangana |] | |
| 3. | Dinshaw Maneck Mistry |] | |
| | Aged 96 years, Parsi |] | |
| | Indian Sethna Building, 4 th Floor, |] | |
| | 29-29A, Navroji Seth Street, |] | |
| | Thakurdwar, |] | |
| | Mumbai - 400 002 |] | ... Petitioners |

versus

Bilkish Yunus Namakwala,	]	
aged 66 years, Muslim Sunni Indian	]	
Inhabitant of Mumbai,	]	
Occupation Housewife, residing at	]	
Flat No.2401 24 th Floor A Wing,	]	
Orchid Tower, Bellasis Road, Mumbai	]	
Central, Mumbai - 400 008.	]	... Respondent

**WITH
INTERIM APPLICATION (L) NO.2757 OF 2025
IN
TESTAMENTARY PETITION NO.639 OF 2022**

Vandana Janardhan Salve nee	]	
Vandana Feroze Duggan	]	
Aged 53 years Occ, Nurse	]	
Indian Inhabitant, Residing at	]	
Room No.368, Room 11, Vishnu Patil	]	
Chawl, Near Shankar Mandir,	]	
Achanak Nagar Thane 400 612	]	... Applicant

In the matter of

Lady Jena Jamshedji Duggan	]	... Deceased
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Vandana Janardhan Salve nee	]	
Vandana Feroze Duggan	]	
Aged 53 years Occ, Nurse	]	
Indian Inhabitant, Residing at	]	
Room No.368, Room 11, Vishnu Patil	]	
Chawl, Near Shankar Mandir,	]	
Achanak Nagar Thane 400 612	]	... Applicant

versus

Bilkish Yunus Namakwala,	]	
aged 66 years, Occ. Housewife	]	
Muslim female, Indian Inhabitant	]	
Residing at 2401, 24 th Floor	]	
A Wing, Orchid Tower, Bellasis Road,	]	
Mumbai Central Mumbai 400008	]	... Respondent

Mr. Aspi Chinoy, Senior Advocate a/w. Adv. Shanay Shah, Adv. Soniya Putta, Adv. Karan Mehta, Adv. Souparnika S. i/by M/s. Solomon & Co. for the Petitioner in MPT/240/2025.

Mr. Asif Latif Shaikh a/w. Adv. Abid Abbas Sayyad, Adv. P.S. Bankar, Adv. Iqbal Qureshi for the Applicant in IAL/2757/2025, IAL/55978/2025.

Dr. Uday Warunjikar, a/w Mr. Shagufa Ansari a/w. Adv. Vaibhav Karnik for the Respondent.

CORAM : KAMAL KHATA, J.
RESERVED ON : 25th July, 2025.
PRONOUNCED ON : 22nd September, 2025

JUDGMENT:

1) This case exemplifies a flagrant fraud perpetrated not only upon the rightful beneficiaries but also upon this Hon'ble Court. By deliberately making false averments in Testamentary Petition No. 639 of 2022 and ensuring that no notice was served on any interested party, the Respondent fraudulently secured Letters of Administration with the Will annexed. By such conduct, the Respondent unlawfully usurped an immovable property valued at Rs. 150 crores situated at Malabar Hill.

2) The Petitioners have filed the present Miscellaneous Petition seeking revocation and annulment of the Letters of Administration dated 3rd June 2022, granted in respect of an alleged Will dated 6th April 1993 of the deceased Lady Jena Duggan, who passed away on 2nd September 1993.

3) After the grant of Letters of Administration in her favour, the Respondent executed and registered a Deed of Transfer dated 17th June 2022, purporting to convey the Lawnside property at Malabar Hill in her own favour, both as alleged administrator and beneficiary under the purported Will.

4) The present Petition accordingly seeks revocation, cancellation and annulment of (i) Letters of Administration dated 3rd June 2022 and (ii) the Deed of Transfer dated 17th June 2022 executed by the Respondent as the alleged Administrator of the estate of Lady Jenna Duggan.

Factual matrix

Legal Heirs of Lady Jenna Duggan

5) Lady Jenna Duggan's outlived her husband and her two sons Nusly and Homi by April 1993. Survived by, (i) Aban – first wife of Homi, and Dr. Feroze, their son, (ii) Eileen, second wife of Homi, and Ferina their daughter, and (iii) Jean, Nusly's wife.

Will dated 4 April 1993

6) Lady Jenna executed a Will dated 4th April 1993, drafted by M/s. Kanga & Co. (Advocates and Solicitors) which is one of the most reputed and leading solicitor firm and was attested by none other than the legend, Senior Counsel Mr. Nani A. Palkhiwala and Solicitor Ms. Roshan Master.

7) Though insignificant, under the Will, amounts were distributed to her cook - John Marquis, her ayah - Mary, the driver – Bhagwan. The balance entire estate consisting of all her immovable and movable properties were bequeathed to her grandson, Dr. Feroze Duggan alone. Notably her granddaughter, Ferina was excluded from

inheritance due to her apprehension that she would marry Mr. Alexander S. Polichichook a Russian, which she ultimately did.

8) The estate included a property known as 'Lawnside' bearing CS No. 242 of Malabar head division valued at Rs. 150 crores and diverse shares, debentures and bank accounts, valued then in excess of Rs. 1 crore (Rupees One Crore).

9) Mr. Aspi Chinoy the learned Senior Counsel for the Petitioners submitted that the following facts and sequence of events would establish and reveal the fraudulent conduct of the Respondent who filed the Petition propounding a demonstrably false and fraudulent Will dated 6th April 1993 of Lady Jena Duggan.

10) Lady Jenna passed away on 2nd September 1993.

Testamentary Petition No. 156 of 1994/Testamentary Suit 78 of 1994

11) Notably, Testamentary Petition No. 156 of 1994 filed by Dr. Feroze Duggan to probate the 1993 Will, due to a caveat by Jean Duggan was converted into Testamentary Suit No. 78 of 1994. After extensive proceedings, this Court, by judgment dated 3rd August 2011, granted Probate of the Will dated 4th April 1993 in favour of Dr. Feroze Duggan. An Appellate Judgment dated 23rd October 2016 upheld the decision, converting the grant into one of Letters of Administration with Will annexed. The Supreme Court dismissed SLP No. 540 of 2017 on 13th January 2017, rendering the grant final.

Thus the Will dated 4th April 1993 was a subject of contest between Jean Nusly Duggan and Dr. Feroze Duggan in a Testamentary proceeding for over 20 years from 1994 to 2017.

12) Notably, both judgments of the High Court recorded that the deceased Lady Jena Duggan had the benefit for the best legal acumen to draft her Will. The Will was drafted by the Attorneys firm Kanga & Co. who were the attorneys of her choice and that the deceased knew the renowned senior counsel Mr. Nani Palkhiwala and the solicitor, Ms. Roshan Master both of whom had attested the Will.

Suit No. 4847 of 1995 & Suit No. 258 of 1998

13) Moreover, simultaneously for over 30 years the Lawnside property has also been the subject matter of Suit No 4847 of 1995 filed by Dr. Feroze Duggan against M/s. Benzer Pvt. Ltd. and others for declaration / cancellation of an alleged Tenancy Agreement dated 6th June 1994 relating to the Bungalow on the said Lawnside Property and other documents, on the ground that they had procured it through fraud and misrepresentation. The said Lawnside property was also the subject of Suit No. 258 of 1996 which had been filed by Jean Nusly Duggan for administration of the Estate of Lady Jena Duggan. The Court Receiver was appointed of the Lawnside property in 1998 and was in possession of the same, except for a portion occupied by Jean Nusly Duggan as agent of the Court Receiver.

14) On 22nd November 2020, Jean Nusly Duggan expired.

Thereafter since 2021 the Court Receiver has taken physical possession of the entire Lawnside Bungalow/ Property.

Testamentary Petition No. 639 of 2022

15) The Testamentary Petition No. 639 of 2022 is filed by Respondent in 2022- twenty-nine years after the death of Lady Jena Duggan on 2nd September 1993, praying for grant of Letters of Administration with Will attached dated 6th April 1993. A series of false representations were made in the said Petition to mislead the Court into treating the matter as uncontested and to fraudulently obtain administration of the estate.

Testamentary Petition No. 4292 of 2023 in respect of Will dated 30th December 1994 of Feroze Duggan.

16) Dr. Feroze Duggan passed away on 13th January 2022, leaving behind a Will dated 30th December 1994. The Petitioners herein are the executors named in the said Will and have filed Testamentary Petition No. 4292 of 2023 for probate thereof. Even on intestate principles (without conceding the same), Petitioners Nos. 1 and 2 would be the legal heirs under section 55 read with Part II of Schedule II of the Indian Succession Act – a position accepted by the Respondent in her affidavit in paragraph no.4(i) at page no. 5.

17) In June 2023, Petitioners became aware that the Respondent had sought mutation of the Lawnside property in her name. Upon conducting a search, the Petitioners discovered Testamentary

Petition No. 639 of 2022 and, pursuant to an order of this Court, obtained certified copies of the entire record on 15th February 2024.

18) Mr. Chinoy submits that the undisputed facts and circumstances establish the following:

- i. that the alleged Will of Lady Jena Duggan dated 6th April 1993 is a false, forged and fraudulent document, and has been conjured up/created by the Respondent, only to enable the Respondent to make an ex facie false, fraudulent and belated claim to Lady Jena Duggan's extremely valuable Malabar Hill Lawnside property and;
- ii. that the Respondent has secured the grant of Letters of Administration in respect of the alleged will dated 6th April 1993 by making knowingly false statements and has thereby also played fraud on this Hon'ble Court.

Suspicious Circumstances:

19) He submits that it is wholly inconceivable that Lady Jena Duggan, having executed a detailed and duly attested Will on 4th April 1993 – merely two days prior to the alleged will dated 6th April 1993 – would have completely reversed her testamentary intentions.

20) Mr. Chinoy submitted that the Will of Lady Jena Duggan dated 4th April 1993 has already been the subject of contested

Testamentary proceedings before this Hon'ble Court spanning over two decades, from 1994 to 2017.

21) By a judgment dated 3rd August 2011, this Hon'ble Court granted Probate of the said Will in favour of her grandson, Dr. Feroze Duggan. The said judgment was affirmed by a detailed Appellate Judgment dated 23rd October 2016, which, while affirming the genuineness of the Will, directed issuance of Letters of Administration with the Will annexed instead of Probate. These judgments inter alia record that:

- i. The deceased had the benefit of the best legal acumen in the drafting of her Will;
- ii. The Will was drafted by M/s. Kanga & Co., Advocates & Solicitors, her long-standing attorneys who had also represented her in litigation against Jean Nusly Duggan;
- iii. The Will was attested by Senior Counsel Mr. Nani A. Palkhivala and Solicitor Ms. Roshan Master, both known personally to the deceased.

22) The Special Leave Petition (SLP) preferred against the appellate judgment dated 23rd October 2016 was dismissed by the Hon'ble Supreme Court by its order dated 13th January 2017. Consequently, the grant of Letters of Administration with the Will dated 4th April 1993 annexed, in favour of Dr. Feroze Duggan, has attained finality.

23) Mr. Chinoy submitted that the patently false and fraudulent nature of the alleged Will dated 6th April 1993, and the Respondent's purported claim thereunder to the Lawnside property at Malabar Hill, is evident from her own conduct over nearly three decades.

24) Despite allegedly having the original of the said Will in her possession, the Respondent did not disclose its existence nor assert any claim over the Lawnside property for an inexplicable period of 29 years – from 1993 until the filing of Testamentary Petition No. 639 of 2022.

25) The only explanation offered for this inordinate delay is found in Paragraph 12 of the said Petition, which reads:

“That the delay, if any, in making the present Petition is on account of the fact that the Petitioner (Respondent herein) was ignorant and unaware of the requirement of obtaining legal representation. Recently, while taking search at home, the Petitioner has found the Will of the Deceased...”

26) This explanation, it is submitted, is inherently improbable and lacks any evidentiary or circumstantial support – particularly in light of the concurrent and long-drawn probate proceedings concerning the 4th April 1993 Will, which were ongoing in this very Court.

27) Moreover, this averment in paragraph 12 of the Petition is belied by and is ex facie contrary to the Respondent's case in her Affidavits in Reply that:

- i. “that she had advanced Rs. 27 lakhs as loan to Lady Jena Duggan in 1980 for a period of 10 years, that Lady Jena Duggan had executed a Mortgage Deed dt 10th July 1980 in favour of the Respondent of her Lawnside property as security,*
- ii. that as Lady Jena Duggan was not in a position to repay the Loan, she had made her will dt 6th April 1993 bequeathed the Lawnside property to the Respondent.*
- iii. that “till the said Will was discovered [in 2022] , the Respondent have been making several attempts for securing the amount; ... I say that as I was looking after Lady Jena there was no intent of any forceful action by the Respondent”.*

28) Mr. Chinoy submitted that the Respondent’s case – that she had advanced a sum of Rs. 27 lakhs to Lady Jena Duggan in 1980, against execution of a Mortgage Deed dated 10th July 1980 over the Lawnside property, and that since the loan could not be repaid, Lady Jena had, by her alleged Will dated 6th April 1993, bequeathed the said property to the Respondent in recognition of her financial assistance and personal care – is wholly untenable and riddled with inconsistencies.

- i. First, this claim is belied by the Respondent’s own silence and complete inaction for a period of 29 years, from September 1993 (when Lady Jena passed away) until 2022, when she allegedly “found” the Will and filed Testamentary Petition No. 639 of 2022.*

If, as now alleged in her Affidavits, the Respondent was a mortgagee since 1980, and the testatrix had expressly bequeathed

the mortgaged property to her in satisfaction of the debt, there is no plausible explanation for her failure to assert any rights, stake a claim, or even disclose the existence of the Will – for nearly three decades. Her silence is wholly inconsistent with the conduct expected of a creditor-legatee in possession of a valid testamentary instrument.

ii. Secondly, this claim contradicts her own averments in Paragraph 12 of the Petition, where she states:

*“That the delay, if any, in making the present Petition is on account of the facts that the Petitioner (Respondent herein) was ignorant and unaware of obtaining any legal representation. **Recently, while taking search at home the Petitioner has found the Will of the Deceased.** Thereafter, the Petitioner made inquiries for the purpose of transfer of the property mentioned in the Will and now the Petitioner has been recently advised to obtain a legal representation. Hence, this Hon’ble Court, in the interest of justice, may condone the delay.”*

This assertion – that the Will was recently discovered – is plainly inconsistent with the narrative now sought to be advanced, that the Respondent was both the mortgagee and sole beneficiary under the Will and had known of its terms all along. It is wholly inconceivable that a lady of considerable means, who could advance a loan of Rs. 27 lakhs would be unaware of the necessity of proper legal representation. Equally impossible is the narrative that, after a lapse of nearly three decades, she suddenly discovered a Will and thereafter initiated steps to transfer the property.

29) Mr. Chinoy submitted that, while the Respondent states in Paragraph 12 of the Petition that the alleged Will dated 6th April 1993 was “recently” discovered, there is a conspicuous absence of any explanation – either in the Petition or in the affidavits filed in reply to the present proceedings – as to how, when, or under what circumstances the following crucial documents allegedly came to light:

- i. The purported Mortgage Deed dated 10th July 1980;
- ii. The alleged Deed of Declaration with No Objection Certificate dated 15th February 1993, purportedly executed by Lady Jena Duggan and Dr. Feroze Duggan;
- iii. The further alleged Deed of Declaration with No Objection Certificate dated 7th April 1993, purportedly executed by Lady Jena Duggan and Jean Nusly Duggan.

30) It is also pertinent to note that, despite repeated and specific requests, the Respondent and her advocates have failed to produce or allow inspection of the original versions of these documents. To date, no inspection has been furnished, thereby casting serious doubt on the authenticity, provenance, and very existence of these alleged instruments.

31) Mr. Chinoy further submitted that during the same 29-year period of alleged silence, the Lawnside property at Malabar Hill was the subject matter of multiple legal proceedings – which underscores

the improbability of the Respondent's claim of ignorance. Specifically:

- i. In Suit No. 4847 of 1995, Dr. Feroze Duggan (grandson of Lady Jena Duggan) filed a suit against M/s. Benzer Pvt. Ltd. and others, seeking declaration and cancellation of an alleged Tenancy Agreement dated 6th June 1994, concerning the Lawnside Bungalow. He contended that said tenancy and other related documents had been fraudulently obtained.
- ii. The property was also the subject of Suit No. 258 of 1996, filed by Jean Nusly Duggan (now deceased), the wife of Nusly Duggan, for administration of Lady Jena Duggan's estate.

In 1998, this Hon'ble Court appointed a Court Receiver in respect of the Lawnside property, who took physical possession in 2001 and continues to remain in possession of the same till date.

32) Mr. Chinoy submitted that the Respondent was fully aware of these proceedings, including the fact that the Court Receiver had been appointed and was in possession of the Lawnside property. This is evident from her own purported Memorandum of Understanding dated 3rd January 2024 with one Mr. Vicky Rupchandani (Exhibit L, Page no.127 to the Respondent's Affidavit dated October 2024 in reply to Interim Application No. 2057 of 2024), which expressly records:

“The balance payments would be made to the Respondent after removal of the Court Receiver.” [Pg. 131]

33) Despite such knowledge, from 2001 to 2022, the Respondent did not assert any claim to the property. Even more significantly, after fraudulently obtaining Letters of Administration in 2022, she purported to transfer the Lawnside property to her own name, despite being fully aware that the Court Receiver was appointed and in actual possession.

34) Mr. Chinoy submitted that the mala fide and fraudulent conduct of the Respondent in propounding the alleged Will dated 6th April 1993 and in filing Testamentary Petition No. 639 of 2022 is conclusively established by her own pleadings.

35) Despite the Petition and the alleged Will expressly referring to Lady Jena Duggan’s grandchildren, the Respondent falsely averred in Paragraph 9 of the Petition that:

*“... that the deceased left her surviving as her only heirs and next of kin according to the Indian Succession Act as Applicable to Parsi, the following persons ...” i.e. Lady Jena Duggan’s husband Jamshedji (who had expired in 15.1.1957) and her two sons Homi and Nusly (who had expired in 9.6.1985 and 31.5.1983) and that **“The Petitioner states that there are no legal heirs of the Deceased or her husband’s side and mother’s side. Further there are no legal heirs of the deceased children of the Deceased. There are no legal heirs of the deceased sons.”***

[Emphasis Supplied]

36) Mr. Chinoy submitted that averment in paragraph no.9 that :

“there are no legal heirs of the deceased children of the Deceased. There are no legal heirs of the deceased sons.”, was ex facie false to the knowledge of the Petitioner/Respondent herein, in view of her statement in paragraph no.7 of the Petition referring to the existence of Lady Jena’s **“grandchildren”**.

“All cash, Jewelleries are already bequeathed to the children and **grandchildren** during the lifetime of the deceased.”

37) He further pointed out that the Respondent, by the averment made in paragraph no.7, mischievously omitted mention of moveable assets, though it included her bank accounts, shares and debentures, which, as of 1993, were collectively valued in excess of Rs. 1 crore. Moreover, the Respondent mischievously undervalued Lawnside property at Malabar Hill admeasuring 3,327 sq mtrs at Rs. 150 crores. Thus, the assertion that in February 1993 Lady Jena Duggan was unable to repay a sum of Rs. 27 lakhs to the Respondent, even assuming such a loan had been advanced is implausible.

38) It was on the basis of this false and fraudulent suppression of material facts, the Petitioner circumvented the statutory requirement of serving citation on any interested party. As a result, the Petition was treated as an “uncontested matter”. By an order dated 5th May 2022 the Addl. Registrar, Original Side treated the Testamentary Petition No. 639 of 2022 as an *“uncontested matter”* and the Letters of Administration along with the Will came to be

granted by order dated 3rd June 2022.

Will of Jena Duggan dated 6th April 1993

39) Mr. Chinoy submits that a close examination of the alleged Will of Lady Jena dated 6th April 1993, annexed as Exhibit-B to the Petition no. 639 of 2022 reveals several glaring deficiencies.

- i. The alleged Will dated 6th April 1993 is not stated to have been prepared or drafted by any Advocate or Solicitor;
- ii. the language of the alleged Will dated 6th April 1993 discloses many grammatical errors for instance;
- iii. clause 4 uses “*give*” instead of the grammatically correct “*given*”;
- iv. clause 6 reads “*after my death give my balance all immovable and movable properties* ” which is syntactically and semantically flawed.
- v. The alleged Will dated 6th April 1993 is attested by two individuals merely identified “John” and “Mary”, with no indication of their full names, addresses or capacity- thereby casting a doubt on the validity of attestation;

In paragraph 6 and 7 purports to state that:

- vi. I direct my executor of this Will that after my death give my balance all immovable and movable properties including Lawnside Harkness road Bombay Property to my donee

Mrs. Bilkish Yunus Namakwalla.”

vii. That Mrs. Bilkish Yunus Namakwalla is taking care of me and maintaining me.”

40) He submits that these clauses – apart from being vague and grammatically incorrect – appear contrived and inconsistent with the tone and form of testamentary documents expected from a Testatrix who had earlier engaged one of the city's most reputed law firms and eminent witnesses (as seen in the duly probated Will dated 4th April 1993).

Affidavit dated 8th August 2022

41) Mr. Chinoy submitted that, having obtained the Letters of Administration, the Respondent sought to cover her tracks by filing an Affidavit dated 8th August 2022 in her capacity as Administrator and Sole Beneficiary, purportedly for rendering a true account of the properties and credits of the deceased under section 317 of the Indian Succession Act, 1925.

42) Interestingly, in paragraph no.4 of her Affidavit dated 8th August 2022, the Respondent herself admitted that the statement made in paragraph no.9 of the Petition – which were also reflected in paragraph no.7 of the Additional Prothonotary's Order dated 5th May 2022 – were a “mistake”. She further stated:

“The two sons did not die as bachelors and were survived by their concerned legal heirs at the time of filing of the Petition.”

43) The Respondent purported to cure this fatal suppression by producing alleged “No Objection Certificates” from the said “concerned legal heirs” – a wholly ineffectual and impermissible attempt to retrospectively sanitise a fraud played on this Hon’ble Court.

44) The said Affidavit annexes the following:

- i. a copy of a Deed of Transfer dated 17th June 2022 executed by the Respondent as the alleged Administrator/Beneficiary of the estate of the late Lady Jena Jamshedji Duggan in favour of the Respondent as the alleged beneficiary under the Will and Testament of Lady Jena Jamshedji Duggan dt 6th April 1993 [Ref : Pg. 167 of Exh. G].
- ii. *“Deed of Declaration with NOC”* dated 15th February 1993 allegedly executed by Lady Jena Duggan and her grandson Dr. Feroze Homi Duggan.

This document claims that Lady Jena Duggan had mortgaged the Lawnside property for Rs. 27 lakhs on 10th July 1980 and that, being unable to repay the said loan, she and her grandson-Dr. Feroze Duggan had agreed to *“give the said mortgaged property to the mortgagee”* namely the Respondent herein.

45) *“Deed of Declaration with NOC”* dated 7th April 1993 allegedly

executed by Lady Jena Duggan and Jean Nusly Duggan records that:

- i. “Mrs Bilkish Yunis Namakwalla is taking care of me, maintaining me also helped me financially by giving me mortgage loan amount for my family survival and other necessary expenses”;*
- ii. that Lady Jena Duggan had by her will dt 6th April 1993 bequeathed the Lawnside property to Mrs Bilkish Yunus Namakwalla and that Jean Nusly Duggan was aware of the Will dt 6th April 1993 and had no objection to the same.”*

46) Notably, no declaration/NOC was even alleged to be executed by Lady Jena’s granddaughter Ms. Ferina Duggan (now Polichichook). Unquestionably, prior to the execution of the Will, both Ms. Ferina Duggan and Mrs. Jean Duggan, being successors, would have to provide such an “NOC” to the Respondent. This omission clearly demonstrates that the assertions in the Affidavit are not only flawed but are a belated and a flawed afterthought.

Affidavit in Reply dated 21st October 2024 to present Interim Application

47) Mr Chinoy further submits that the Respondent in her Affidavit in Reply dated 21st October 2024 to the Interim Application in the Petition has alleged that she had advanced Rs. 27 lakhs as loan to Lady Jena Duggan in 1980 for a period of 10 years, that Lady Jena Duggan had executed a Mortgage Deed dated 10th July 1980 in favour of the Respondent of her Lawnside property as security, that as Lady Jena Duggan was not in a position to repay the loan she had by her Will dated 6th April 1993 bequeathed the Lawnside property to

the Respondent.

48) In her Affidavit-in-Reply to the Petition the Respondent has stated as follows in paragraph no. 4(iii) at page no.7 states that,

“I say that till the said Will was discovered, the Respondent have been making several attempts for securing the amount but initially on account of her camaraderie with late Lady Jena and subsequently the abrupt raise of hands by the Petitioner and particularly by one Jean Nusly Duggan, whom the Respondent contacted through her representatives. I say that as I was looking after Lady Jena there was no intent of any forceful action by the Respondent.”

49) In this Affidavit the Respondent has also impugned the Will of Dr. Feroze Duggan dated 30th December 1994 and consequently the Applicants entitlement in law to maintain the present Petition.

50) Mr. Chinoy submitted that the Respondent's attempt to impugn the Will dated 30th December 1994 of Dr. Feroze Duggan is a mala fide effort to challenge the locus of the present Petitioners in maintaining the present revocation proceedings. Such a challenge is a transparent diversionary tactic aimed at deflecting from the fraudulent nature of the Letters of Administration obtained by the Respondent.

51) He further submitted that the Respondent has no caveatable interest in the estate of Dr. Feroze Duggan and therefore lacks the standing to assail his Will or the testamentary proceedings for grant of probate in respect thereof. Consequently, she cannot be heard to question the locus of the Petitioners in the present proceedings.

52) In any event, and without prejudice to the Petitioners' rights as executors and beneficiaries under the Will, even assuming (whilst denying) that section 213 of the Indian Succession Act, 1925 bars them from asserting rights as executors prior to the grant of probate, it is undisputed that Petitioners Nos. 2 and 3 are the Class II legal heirs of Dr. Feroze Duggan, under the law of intestate succession. Accordingly, they undeniably have the locus standi to maintain the present Petition for revocation of the Letters of Administration fraudulently obtained by the Respondent.

53) Mr. Chinoy submitted that it is well settled in law that in a Petition for revocation, any person who is aggrieved by the grant and who had no knowledge of the proceedings, or where proper citation was not issued, is entitled to seek revocation of the probate or Letters of Administration on such grounds as may be available to them.

54) He relied on the decision of the Hon'ble Supreme Court in *Basanti Devi v. Ravi Prakash Ramprasad Jaiswal*¹, where it was held that non-issuance of citation to interested parties vitiates the grant and entitles such parties to move for revocation.

55) This Hon'ble Court, in *George Harris v. Millicent Spencer*², held that:

"An interest, however slight, or even a bare possibility of interest, is sufficient to entitle a person to seek revocation of a grant."

56) It was further held that even a person who acquires an interest

¹ (2008) 1 SCC 267

² AIR 1933 Bom 370 (at para 7)

in the estate after the testator's death, in a case of intestacy, is entitled to apply for revocation. In essence, all persons having an interest in the estate are entitled to apply.

57) The Calcutta High Court, in *Dinanath Shah v. Surati Devi & Ors.*,⁵ affirmed the above position by following *George Harris* and reiterated that:

"The object of section 263 is to protect the interest of persons who might have a claim in the estate of the deceased, and who have been prejudiced by the grant, especially where they come to know of it only subsequently, and the grantee asserts rights based on it."

58) In view of the foregoing facts, circumstances, and legal position, it is respectfully submitted that the present Petition for Revocation be allowed, and this Hon'ble Court may be pleased to:

- (a) Revoke and annul the Letters of Administration dated 3rd June 2022 granted in Testamentary Petition No. 639 of 2022, in respect of the alleged Will dated 6th April 1993 of Lady Jena Duggan; and
- (b) Cancel and annul all steps taken by the Respondent Bilkish Namakwala pursuant to the impugned grant, including the execution and registration of the Deed of Transfer dated 17th June 2022 purporting to transfer the Lawnside Property to herself, and the mutation of her name in the Property Card;
- (c) Direct that a certified copy of the order be forwarded to

⁵ (2003) 107 CWN 353 (Ref: Paras 6, 6.1, and 8.2 of the judgment)

the Registrar of Assurances, under section 31 of the Specific Relief Act, 1963, for appropriate cancellation and rectification of the registered instrument, and to take steps for removal of the Respondent's name from the records.

Submissions on behalf of the Respondents

59) The Respondent contends that the status of the Petitioners to claim the present relief is affected by section 213 of Indian Succession Act, 1925. It is alleged that the Petitioners are third parties to the testamentary proceedings and have preferred the present revocation petition without first establishing their rights or entitlement under the Will of Dr. Feroze Duggan, as required under section 213 of the Indian Succession Act, 1925.

60) The Respondent further submits that the Petitioners are barred under section 213 of Indian Succession Act, 1925, as they are neither the legal representative of Lady Jena Duggan, nor have they obtained probate in their favour to prima facie establish any right in respect of her estate. On this ground alone, the Miscellaneous Petition preferred by the Petitioner is not maintainable.

61) The Respondent further states that the alleged Will of Late Dr. Feroze Duggan, under which the Petitioners claim rights, is itself fraudulent and inauthentic, and is presently under challenge in the Testamentary Suit No. 199 of 2024.

62) The Respondent submits that the Petitioners cannot be

permitted to approach this Hon'ble Court by circumventing the statutory requirements laid down under applicable law. It is contended that prior to passing any orders affecting the grant obtained by the Respondent, this Hon'ble Court must first:

- i. examine the credentials of the Petitioners,
- ii. verify the bona fides of their claim, and
- iii. ascertain the true nature of their standing before this Court.

63) The Respondent further submits that, in the interest of justice and judicial economy, all connected matters—including the present Miscellaneous Petition, the Testamentary Petition for grant of probate of the Will of Dr. Feroze Duggan, and Testamentary Suit No. 199 of 2024—ought to be heard and decided together, so as to comprehensively determine the rights, interests, and title over the subject property.

64) It is submitted that no prejudice will be caused to the Petitioners in adopting such a course, since:

- i. their interests are already protected by the Interim Order dated 10th February 2025 passed by this Hon'ble Court;
- ii. the Lawnside property is in the custody of the Court Receiver; and
- iii. the Respondent undertakes not to alienate or create any

third-party rights in the said property, pending adjudication.

65) The Respondent submits that the locus of the Petitioners is seriously disputed and stands challenged by the claim of the alleged wife of the deceased Dr. Feroze Duggan, who has since set up a competing testamentary instrument.

66) It is alleged that the wife of Dr. Feroze Duggan has been deliberately ignored by the Petitioners for reasons best known to them. The Petitioners, in their pleadings, have not even acknowledged her as a legal heir to the estate of the deceased, and have consciously omitted any reference to her or her claims in the present proceedings.

67) The said wife has independently approached this Hon'ble Court, asserting rights based on a purported Will and Last Testament of Dr. Feroze Duggan dated 9th March 2020, which is currently sub judice in separate proceedings. The Respondent contends that the existence of this alleged subsequent Will renders the Will propounded by the Petitioners (dated 30th December 1994) redundant and, consequently, demolishes the very basis of the Petitioners' claim and locus in the present proceedings.

68) It is submitted that unless and until the Petitioners establish their rights before this Hon'ble Court, they cannot be permitted to seek revocation of the grant issued in favour of the Respondent.

69) The Respondent further submits that the deceased Dr. Feroze Homi Duggan had expressly renounced his rights in respect of the property known as 'Lawnside', Malabar Hill, in favour of the Respondent.

70) It is the Respondent's case that on 10th July 1980, Lady Jena Duggan obtained a loan of Rs. 27,00,000 from the Respondent, Mrs. Bilkish Yunus Namakwala, against a mortgage of the Lawnside property. The terms of the mortgage allegedly stipulated that, in the event of non-repayment within ten years (i.e., by 1990), the Respondent would become entitled to full rights in the said property.

71) It is alleged that the mortgage amount remained unpaid even as of 1993, and that Lady Jena discussed this issue with her grandson, Dr. Feroze Duggan, who declined to repay the loan. Thereafter, on 15th February 1993, Lady Jena and Dr. Feroze Duggan allegedly executed a Deed of Declaration with No Objection, wherein Dr. Feroze purportedly waived all his rights in the property.

72) Subsequently, on 6th April 1993, Lady Jena is alleged to have executed a Will and Codicil bequeathing the Lawnside property to the Respondent.

73) On 7th April 1993, she purportedly executed another Deed of Declaration, this time with a No Objection from Mrs. Jean Nusly Duggan, confirming the bequest in favour of the Respondent.

74) The Respondent claims that these documents were duly

executed in the presence of court officers and are validly executed instruments.

75) The Respondent contends that the said documents – namely the mortgage, declarations, and NOCs – are not being challenged on their substance, but merely on the timing of their presentation before this Hon’ble Court. It is submitted that their veracity and authenticity have not been specifically disputed.

Miscellaneous

76) The Respondent submits that the challenge to the impugned Grant is entirely misconceived, being based on frivolous grounds such as the *language, grammatical errors*, or the *presumption* that the Will was not drafted by a competent legal professional. Such objections, it is submitted, are neither maintainable nor legally sustainable grounds for revocation. Further, the delay in filing the Petition for Revocation has already been condoned by the predecessor Bench, and no challenge to the credibility or competence of the learned Judge ought to be entertained under the guise of questioning such procedural aspects.

77) The Respondent states that on 4th September 2023, Petitioner No.1 filed Third Party Application (L) No. 25070 of 2023 seeking certified copies of Testamentary Petition No. 639 of 2022 and the Grant issued therein. The said application was opposed by the Respondent but came to be allowed by Order dated 5th December

2023. Upon obtaining the documents on 21st October 2023, the Petitioners then filed Testamentary Petition No. 4292 of 2023, seeking Probate of the Will dated 30th December 1994 of Dr. Feroze Homi Duggan.

78) It is the Respondent's case that the Petitioners, despite being aware of the subsisting Grant in favour of the Respondent in respect of Lady Jena Duggan's estate, have suppressed the pendency of Third Party Application No. 25070 of 2023 as well as the issuance of the Grant, in the pleadings of the Probate Petition and in the present Revocation Petition (Petition No. 240 of 2025), thereby misleading this Hon'ble Court.

79) The Respondent further states that she was not heard prior to the passing of the ad-interim and interim orders dated 24th July 2024 and 10th February 2025, in Interim Application No. 2057 of 2024. Despite having issued instructions via WhatsApp to her erstwhile Advocate to file a Reply, the said advocate wrongfully represented to the Court that there were no instructions, thereby causing the Court to proceed without hearing the Respondent. The Respondent has, as a result, initiated disciplinary proceedings against her former counsel for such unprofessional conduct.

80) It is submitted that the Will of Dr. Feroze Duggan dated 30th December 1994, relied upon by the Petitioners, is of dubious veracity. The said Will was never referred to by Dr. Feroze Duggan

himself in any pleadings before the Hon'ble Apex Court up to 2017, even in proceedings where title to the Lawnside property was directly in issue. According to the Petitioners' own case, the said Will anticipates a bequest of the Lawnside property, which had not vested in Dr. Feroze Duggan as on 30th December 1994 – rendering such bequest legally untenable.

81) Furthermore, the Will is silent as to any contingent bequest in the event of the premature demise of the beneficiary or testator, and does not name any alternate trustee, which raises doubts as to its genuineness and legal enforceability.

82) The Respondent reiterates that the only property forming part of Lady Jena Duggan's estate – namely the bungalow "Lawnside" – was bequeathed to the Respondent under the Will dated 6th April 1993 and relevant Declarations. Necessary contemporaneous documentation was executed in that regard.

83) The present Revocation Petition, it is submitted, proceeds merely on surmise, conjecture and conflicting testamentary documents, with two rival claimants – the Petitioners and the widow of Dr. Feroze Duggan – now asserting rights on the basis of two separate Wills nearly three decades apart. The Respondent prays that:

- (a) All related proceedings may be heard together;
- (b) No party's rights would be prejudiced, especially since:

- i. The subject property is in the custody of the Court Receiver;
- ii. The Petitioners are protected by the interim orders dated 10th February 2025;
- iii. The Respondent undertakes not to alienate or encumber the subject property in the interim.

84) In view of the above it is submitted that the petition be disposed of and the Hon'ble Court be pleased to take up all the matters and club and hear the same together and simultaneously.

Reasons and Conclusion:

85) Having heard both Counsel and perused the record, I draw the following conclusions:

Second Letters of Administration with Will annexed

86) At the outset, I am of the view that the Letters of Administration 3rd June 2022 obtained in favour of the Respondent is a nullity. Probate of the Will dated 4th April 1993 had already been granted in favour of Dr. Feroze Duggan by this Court's order dated 3rd August 2011, which was subsequently upheld by the Supreme Court when the grant was converted into Letters of Administration with Will annexed on 13th January 2017.

87) There exists no statutory provision in law including Part IX of the Indian Succession Act, 1925 for a second Letters of

Administration in respect of the same deceased and the same property; founded upon another Will. Any party seeking such a grant must necessarily apply for revocation of the earlier Letters of Administration in accordance with Chapter III or Chapter IV in Part IX of the Indian Succession Act, 1925. On this ground alone, the second Letters of Administration obtained by the Respondent deserves to be set aside.

88) Moreover, a clear case of fraud practiced on this Court has been demonstrated by Mr. Chinoy, this is another count where this Petition succeeds as *“nothing ... nothing ... and nothing, obtained by fraud, can be sustained, as fraud unravels everything.”*⁴ The Hon’ble Supreme Court while dealing with fraud practiced on the High Court⁵ observed as under:

*“26. Fraud may be defined as an act of deliberate deception with the design of securing some unfair or undeserved benefit by taking undue advantage of another. In fraud one gains at the loss of another. Even most solemn proceedings stand vitiated if they are actuated by fraud. **Fraud is thus an extrinsic collateral act which vitiates all judicial acts, whether in rem or in personam.** The principle of “finality of litigation” cannot be stretched to the extent of an absurdity that it can be utilised as an engine of oppression by dishonest and fraudulent litigants.”*

[Emphasis Supplied]

89) Although the Petition could be allowed on the above grounds alone, in order to obviate any grievance that the other contentions were left unaddressed, I proceed to deal with them hereinbelow.

⁴ Nidhi Kaim v. State of Madhya Pradesh, (2017) 4 SCC 1

⁵ A.V. Papayya Sastry v. Govt. of A.P., (2007) 4 SCC 221 : 2007 SCC OnLine SC 317

Caveatable Interest

90) I find merit in the submission of Mr. Chinoy that the Petitioners would have caveatable interest and locus to maintain the Petition being heirs of Dr. Feroz Duggan based on entitlement under intestate succession. The principles laid down in *Basanti Devi vs. Ravi Prakash Ramprasad Jaiswal* (supra), *George Haris vs.. Millicent Spencer* (supra), and *Dinanath Shah vs. Surati Devi and Ors.* (supra) are expressly applicable in this case.

91) Dr. Warunjikar's contention that (i) the locus of the Petitioners is challenged by wife of Dr. Feroze Duggan, and (ii) that Dr. Feroze Duggan has declared and renounced his rights to the 'Lawnside' property in favour of the Respondent, appears calculated to manufacture yet another controversy where none exists. These arguments seem intended more to obfuscate rather than assist the Court in a fair adjudication. Such submissions are wholly unwarranted, if not deliberately raised with the object of securing a finding capable of later challenge, thereby prolonging the final resolution. Be that as it may, these contentions would not presently detain me from deciding whether Letters of Administration dated 3rd June 2022 and Deed of Transfer dated 17th June 2022 deserve to be annulled and cancelled. The primary issue for the Court's consideration is whether the Respondent could at all have been granted a second Letters of Administration without first seeking

revocation of the earlier one.

Delay and Latches

92) I find considerable merit in Mr. Chinoy's submission that there has been an inexplicable delay of 29 years in seeking Letters of Administration.

Suspicious Circumstances

93) I also find merit with Mr. Chinoy's contention that it is inconceivable that a lady, who had the benefit of the finest legal expertise, would prepare a Will independently or through another Advocate, rather than have another Will drawn by the same Solicitor, assuming she had a change of heart. Such a conduct would be wholly inconsistent with normal human behavior as observed by the Hon'ble Supreme Court⁶ that "*a circumstance would be 'suspicious circumstance' when it is abnormal or is not normally expected in a normal situation or is not expected of a normal person.*"

94) In my view, it is equally inconceivable that her Solicitors would have been unaware of, or disregarded, a sizeable debt of Rs. 27 lakhs – an enormous liability in those days – allegedly secured by mortgage over the deceased property. It is further difficult to accept that such a mortgage was neither registered nor reflected in the property records by way of entry of the mortgagee's name. The narrative sought to be advanced by Dr. Warunjikar is to say the least,

⁶ Indu Bala Bose v. Manindra Chandra Bose, (1982) 1 SCC 20, paragraph 8

unconvincing and unpalatable.

Purported Mistake

95) I am also unable to accept the so-called mistake pleaded in the Petition and purportedly sought to be rectified in the subsequent affidavit with respect to the children and grandchildren. It is inconceivable that a person who claims to be a caretaker of the deceased, presumably for a prolonged period, during the presumed absence of family, and who is alleged to have advanced a large sum as a loan, intended to be a beneficiary of her property, would be unaware of her children, grandchildren and daughter-in-law. It clearly appears to be a fabricated narrative devised to serve her own self-interest.

96) Viewed in the totality of Dr. Warunjikar's submissions, the attempt appears to be nothing short of a conspiracy to usurp the property by employing the machinery of this Court as an instrument.

97) It is difficult to believe that an individual entitled to a valuable property in Mumbai would wait nearly three decades to have it transferred in her name. Equally impossible is the suggestion that such a person would remain unaware of litigation concerning the same property initiated by the deceased's successors. Against this backdrop, the contention that family disputes or other constraints prevented her from filing a Petition appears patently false.

98) The argument that all proceedings were initiated by Constituted Attorneys and that Dr. Feroze Duggan himself never verified or attested any document himself, will have no bearing on the present challenge to the grant of Probate in favour of the Petitioner. The contention is nothing else but a smokescreen, designed to deflect this Court's attention from the core issue. The attempt to question the locus of the Petitioner is contrived strategy, aimed solely at clouding the record and diverting focus from the real matter at hand.

Bar under section 213 of Indian Succession Act.

99) The contention that section 213 of the Indian Succession Act, 1925 would bar the Petitioner, on the ground that they are neither legal representatives nor have obtained probate, may at first appear plausible. However, the submission overlooks the principle laid down in *George Harris vs. Millicent Spencer* (supra) where Court held that a person acquiring an interest in the estate after the Testator's death, in case of intestacy, is entitled seek revocation. It also ignores the ruling in *Dinanath Shah vs. Surati Devi* (supra) where the Court observed that section 263 protects the interest of those adversely affected by the grant, particularly where knowledge of such grant arises only subsequent to its issuance.

Claim of the alleged Wife

100) Likewise, the claim of the alleged wife of Feroze Duggan seeking

to challenge the locus of the Petitioner, is of no assistance. The Petitioner's case is that Dr. Feroze Duggan was a bachelor. The burden, therefore, rests upon an alleged wife to establish her marriage before she can legitimately question the Petitioner's locus. It raises a doubt more particularly when the Respondent makes an assertion that Dr. Feroze Duggan left India after the Mumbai bomb blasts, though uncertain whether it was on 12th March 1993, 11th July 2006 or 13th July 2011 and the other question; how did the wife marry Dr. Feroze Duggan "prior to his demise" in India when he was away. In any event, adopting the contention of the wife is not a ground available to the Respondent.

Renouncing rights to Lady Duggan's estate by Dr. Feroze Duggan

101) The contention that Dr. Feroze Duggan had renounced his rights to the Lawnside property is wholly untenable. It stands contradicted by the three-decade-long litigation culminating in a final adjudication declaring Dr. Feroze Duggan's entitlement to the property under the Will of Lady Jena Duggan. It is equally inconsistent with assertion that he had given a "no-objection" on 15th February 1993 for transferring rights to the Respondent. The fact that Dr. Feroze Duggan litigated persistently for nearly three decades, against his aunt Jean Nusly Duggan renders the suggestion of such a prior renunciation wholly illogical and unacceptable.

102) Though, as a general rule, a Will cannot be invalidated merely

on account of language or grammatical errors, the present case must be viewed in context, considering the social standing of the deceased, and the fact that she had the access to the finest legal expertise, it is improbable that she would, within two days of executing a formal Will, prepare another Will independently or through an unknown advocate, with attesting witnesses of unverified and unfamiliar origin.

103) Some other questions that arise for consideration is:

- i. Why no steps were adopted against Jean Nusly Duggan who was residing in the property until she expired on 22nd November 2020? Assuming that the Respondent could not find the purported Will of deceased Lady Jena Duggan, the Respondent does not suggest that the mortgage deed too was misplaced.
- ii. Why were no steps initiated against removal of the Court Receiver appointed in 1998?
- iii. Does the Respondent have a right to challenge the authenticity of Dr. Feroze Duggan's Will in absence of any caveatable interest?

Conduct of Respondent during the present proceedings

104) Besides the above, it would be pertinent to note the conduct of the Respondent.

105) Despite Court Order dated 10th February 2025, the Respondent failed to deposit the Letters of Administration with the Testamentary Registrar within the stipulated period.

106) Every attempt was made to scuttle the hearing of the matter on one ground or the other as duly recorded in the orders on the Court record. Even costs imposed for adjournments were blatantly disregarded.

107) The Advocates conduct too was noted, which clearly demonstrate the intent of the Respondent to thwart hearings of proceedings and willfully breach the orders of the Court. The Orders from 10th February 2025 to 11th July 2025 are evidence to the blatant disrespect to this Court and its orders.

108) Referring to the retraction of statements in the subsequent Affidavit filed by the Respondent as noted above, I am convinced that false statements were made for obtaining the Letters of Administration with an intent to deceive the Court. In my view, the purported Will dated 6th April 1993 relied upon by the Respondent would certainly impact the administration of justice, cause a substantial injury to the Petitioners, and deprive the Petitioners of a very valuable property. The existence of such a document would compel Courts to require the parties to lead evidence to prove it.

109) Furthermore, having heard the arguments, I am convinced that in the interest of justice, an inquiry should be conducted into the

offences committed by the Respondent in relation to the forged Will dated 6th April 1993, annexed to the Letters of Administration granted by the Court. Reliance is placed on the recent judgement of this Court in the case of *Hila Homi Dadi vs. Hoshang Jehangir Khan*⁷ which considers the law on section 340 read with section 195 of the Criminal Code Procedure in turn relying on the full bench of Supreme Court in *State of Punjabi vs. Jasbir Singh*⁸ which decided the issue, that the purpose of a preliminary inquiry under section 340(1), Criminal Procedure Code was not to find whether a person is guilty or not but only to decide whether it was expedient in the interest of justice to inquire into the offence. The ratio of the Full-Bench decision in *Jasbir Singh's (supra)* squarely applies to the facts of this case.

110) In *KD Sharma vs. SAIL*⁹ the Supreme Court held that suppression or concealment of material facts is not an advocacy, it is a jugglery, manipulation, manoeuvring or misrepresentation. If a party does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the Court has inherent power in order to protect itself and to prevent an abuse of its process to refuse to proceed further with the examination of the case on merits. If the Court does not reject the Petition on that ground, the Court would be failing in its duty. It went on to state that the Court must initiate contempt proceedings for abusing the process

⁷ 2025:BHC-OS:13699

⁸ 2022 SCC OnLine SC 1240

⁹ (2008) 12 SCC 481

of the Court. The conduct of the Respondent in present case squarely fits to the one described in the said judgement. I am therefore inclined to initiate contempt proceedings against the Respondent.

111) I am inclined to also saddle the Respondent with exemplary costs as commended by the Supreme Court in the case of *Dnyandeo Sabaji Naik vs. Pradnya Prakash Khadekar*¹⁰ which held that Court must view with disfavour any attempt by a litigant to abuse the process and Courts of justice will not be allowed to be disrupted by litigative strategies designed to profit from the delays of the law. The relevant paragraphs are extracted below for ready reference:

“13. This Court must view with disfavour any attempt by a litigant to abuse the process. The sanctity of the judicial process will be seriously eroded if such attempts are not dealt with firmly. A litigant who takes liberties with the truth or with the procedures of the Court should be left in no doubt about the consequences to follow. Others should not venture along the same path in the hope or on a misplaced expectation of judicial leniency. Exemplary costs are inevitable, and even necessary, in order to ensure that in litigation, as in the law which is practised in our country, there is no premium on the truth.

14. Courts across the legal system—this Court not being an exception—are choked with litigation. Frivolous and groundless filings constitute a serious menace to the administration of justice. They consume time and clog the infrastructure. Productive resources which should be deployed in the handling of genuine causes are dissipated in attending to cases filed only to benefit from delay, by prolonging dead issues and pursuing worthless causes. No litigant can have a vested interest in delay. Unfortunately, as the present case exemplifies, the process of dispensing justice is misused by the unscrupulous to the detriment of the legitimate. The present case is an illustration of how a simple

¹⁰ (2017) 5 SCC 496: (2017) 3 SCC (civ) 189 : 2017 SCC OnLine SC 211

issue has occupied the time of the courts and of how successive applications have been filed to prolong the inevitable. The person in whose favour the balance of justice lies has in the process been left in the lurch by repeated attempts to revive a stale issue. This tendency can be curbed only if courts across the system adopt an institutional approach which penalises such behaviour. Liberal access to justice does not mean access to chaos and indiscipline. A strong message must be conveyed that courts of justice will not be allowed to be disrupted by litigative strategies designed to profit from the delays of the law. Unless remedial action is taken by all courts here and now our society will breed a legal culture based on evasion instead of abidance. It is the duty of every court to firmly deal with such situations. The imposition of exemplary costs is a necessary instrument which has to be deployed to weed out, as well as to prevent the filing of frivolous cases. It is only then that the courts can set apart time to resolve genuine causes and answer the concerns of those who are in need of justice. Imposition of real time costs is also necessary to ensure that access to courts is available to citizens with genuine grievances. Otherwise, the doors would be shut to legitimate causes simply by the weight of undeserving cases which flood the system. Such a situation cannot be allowed to come to pass. Hence it is not merely a matter of discretion but a duty and obligation cast upon all courts to ensure that the legal system is not exploited by those who use the forms of the law to defeat or delay justice. We commend all courts to deal with frivolous filings in the same manner.”

112) In view of the above, I am convinced that the Letters of Administration granted in favour of the Respondent deserves to be set aside with exemplary costs. Accordingly, I pass the following order:

- i. the Petition is allowed in terms of prayer clauses (a) and (b), the Registrar of Sub-Assurances – City-I, is directed to cancel the registration of Deed of Transfer dated

17th June, 2022 registered under Sr. No. BBB-6974-2022 and record its cancellation in his books as per section 31(2) of the Specific Relief Act, 1963.

ii. the Respondent is directed to pay to the Petitioner a sum of Rs.. 25,00,000/- within a period of two weeks from the date of this order;

iii. this Court takes *Suo motu* cognizance of the breach of the Order dated 10th February 2025 and directs the Registry to issue a show cause notice to the Respondent seeking explanation why no action should be taken against her for willful breach of the order dated 10th February 2025.

iv. The Prothonotary and Senior Master through his representative shall lodge an appropriate Complaint before the jurisdictional Magistrate in respect of the offences punishable under sections 233, 236, 237, 336, 340 of the Bhartiya Nyaya Sanhita, 2023 for the offences alleged to have been committed by the Respondent. Such Complaint shall be filed in accordance with section 379(1)(b) and (c) read with section 379(3)(a) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

113) The Prothonotary and Senior Master to report compliance and status of the complaint every three months to this Court.

114) In view of the disposal of the Miscellaneous Petition No.240 of

2025, all interlocutory applications are disposed of accordingly.

115) List matter for compliance on 15th December 2025.

116) All concerned to act on an authenticated copy of this Order.

(KAMAL KHATA, J.)

Cases Referred:

1. (2008) 1 SCC 267.
2. AIR 1933 Bom 370 (at para 7).
3. (2003) 107 CWN 353 (Ref: Paras 6, 6.1, and 8.2 of the judgment).
4. Nidhi Kaim v. State of Madhya Pradesh, (2017) 4 SCC 1.
5. A.V. Papayya Sastry v. Govt. of A.P., (2007) 4 SCC 221 : 2007 SCC OnLine SC 317.
6. Indu Bala Bose v. Manindra Chandra Bose, (1982) 1 SCC 20, paragraph 8.
7. 2025:BHC-OS:13699.
8. 2022 SCC OnLine SC 1240.
9. (2008) 12 SCC 481.
10. (2017) 5 SCC 496: (2017) 3 SCC (civ) 189 : 2017 SCC OnLine SC 211.