

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

**INTERIM APPLICATION (L) NO.928 OF 2025
IN
CAVEAT (L) NO.24516 OF 2022
IN
TESTAMENTARY PETITION NO.428 OF 2022**

Akbar Aziz Ladak & Ors. ... Applicants

In the matter between

Jenu Aziz Ladak, also known as

Hamida Aziz Ladak ... Caveator

V/s.

Vinod Vasant Kashid & Anr. ... Petitioners

**WITH
INTERIM APPLICATION NO.1828 OF 2024
IN
CAVEAT (L) NO.24507 OF 2022
IN
TESTAMENTARY PETITION NO.428 OF 2022**

Anwarali Ahmedali Karmali & Ors. ... Applicants

In the matter between

Vinod Vasant Kashid & Anr. ... Petitioners

Vs.

Sakarkhanu Ahmedali Karmali ... Applicant/Caveator

Mr. Alizain Patel for the Applicant.

CORAM : ARIF S. DOCTOR, J.

DATE : 06TH FEBRUARY 2025

P.C. :

Interim Application (L) No.928 of 2025

1. The present Interim Application is filed for condonation of delay of 21 days in filing the present Interim Application as also to permit the Applicants to be brought on record as the legal heirs and representatives of the original Caveatrix in Caveat (L) No.24516 of 2022 as also Interim Application (St) No.18229 of 2024 in terms of the Schedule.

2. Learned Counsel appearing on behalf of the Applicants points out that the Testamentary Petition has been filed seeking Probate of the Last Will and Testament of one Shaban Gulamali Thanawala ('the deceased'). The Caveatrix was the paternal aunt of the deceased and the present Applicants are her children. He submits that the Caveatrix had passed away and the Applicants seek to come on record to contest the Testamentary Petition and the grant of Probate in favour of the Petitioners.

3. Having heard Learned Counsel for the Applicants as also having perused the Interim Application, I find that the sufficient cause has been made out to allow the Interim Application. In any view, today none appeared for the Petitioners to oppose the Interim Application, though served. Thus, Interim Application is allowed in terms of prayer clauses (a) and (b), which read thus:

“a) That the delay of 21 days in filing the present Application may be condone on such terms and conditions as this Hon'ble Court may deem fit and proper.

b) That this Hon'ble Court be pleased to permit the Applicants to be brought on record as the heirs and legal representatives of deceased Original Caveator in Caveat (L) No. 24516 of 2022 and further permit the Applicants to amend the Caveat (L) No. 24516 of 2022 and Interim Application (st) No. 18229 of 2024 in terms of SCHEDULE annexed hereto;”

4. Interim Application is thus disposed of accordingly.

Interim Application No.1828 of 2024

5. By the present Interim Application, the Applicants seek to amend the Caveat being Caveat (L) No.24507 of 2022 by substituting the Caveator with the Applicants herein.

6. Learned Counsel for the Applicants points out that the captioned Testamentary Petition has been filed seeking Probate of the Last Will and

Testament of one Shaban Gulamali Thanawala ('the deceased') which it is their own contention that the same is fabricated, forged and not genuine.

7. The Interim Application sets out that on the demise of the Caveator, the Applicants came to know that there were certain disputes pending before the Court in respect of the estate of the brother of the deceased, viz., Ramzanali Gulamali Thanawala, who was predeceased the deceased. The Application further sets out that on an inquiry, original Caveator had found that the said deceased had during his lifetime contested the Testamentary Petition filed by one Minu Yusuf Patel and Behram Maneck in respect of the estate of Ramzanali Gulamali Thanawala.

8. It is thus that the legal heirs of the Caveator seek to come on record in place and stead of the Caveator, who has since passed away, to contest the Petition filed for Probate in respect of the estate of the said deceased.

9. Having heard Learned Counsel for the Applicants as also having perused the Interim Application, I find that the sufficient cause has been made out to allow the Interim Application. In any view of the matter, today none appeared for the Petitioner to oppose the Interim Application, though served. Thus, Interim Application is allowed in terms of prayer clauses (c) and (d), which read thus:

- "c) That this Hon'ble Court be pleased to permit the Applicants to be brought on record as the heirs and legal representatives of deceased Original Caveator in Caveat (L) No. 24507 of 2022 and further permit the Applicants to amend the Caveat (L) No. 24507 of 2022 in terms of SCHEDULE annexed hereto;*
- d) That this Hon'ble Court be pleased condone the delay of 684 days in filing the Affidavit in Support of Caveat as per Rule 406 of Bombay High Court (Original Side) Rules and further allow and/or permit the Applicants to file and/or tender on record the Affidavit in support of Caveat in the name of Applicants in Caveat (L) No. 24507 of 2022;"*

10. Interim Application is thus disposed of accordingly.

(ARIF S. DOCTOR, J.)