



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

**INTERIM APPLICATION NO. 3180 OF 2025**  
**IN**  
**CAVEAT NO. 176 OF 2024**

Suresh Jeram Budhbhatti (since  
deceased, through LR – Saroj Suresh  
Budhbhatti)

...Applicant/Org. Petitioner

**In the matter between :**

Suman Jeram Budhbhatti

...Deceased

Suresh Jeram Budhbhatti (since  
deceased) through his L.R. Saroj Suresh  
Budhbhatti

...L.R. of Ori. Petitioner

**Versus**

Chetan Pranlal Brijlani and Others

...Caveators

**WITH**  
**TESTAMENTARY SUIT NO. 157 OF 2024**  
**IN**  
**TESTAMENTARY PETITION NO. 908 OF 2019**

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*Mr. Uttam S. Rane for Applicant/Petitioner.*

*Mr. Mandar Patil, Ms. Mamta Magare i/b M/s. Bagkar and Co. for Caveators.*

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**Coram :** Sharmila U. Deshmukh, J.

**Date :** 13<sup>th</sup> November, 2025.

**P. C. :**

1. Interim Application has been taken out by Applicant, who is legal heir of original Petitioner. The Application has been taken out by one of

the legal heirs of the original Petitioner who died during the pendency of the above proceedings. During the pendency of the present Interim Application, the Applicant expired and by order of 6<sup>th</sup> August, 2025, this Court permitted the Applicant to delete the name of legal heir of original Petitioner.

**2.** The Application seeks dismissal of the Caveat (Lodging) No. 276 of 2019, which was filed by legal heirs of two sisters of the deceased who pre-deceased the deceased.

**3.** The Testamentary Petition came to be filed by the original Petitioner, i.e. Suresh Jeram Budhbhatti, who was brother of the deceased seeking letters of administration to the estate of the deceased. The deceased who expired on 26<sup>th</sup> January, 2018, had four sisters – Kalavati, Jasuben, Damyanti, Vanita and two brothers, i.e. Suresh and Pradeep. The parents of the deceased pre-deceased the deceased and wife of the deceased expired on 24<sup>th</sup> November, 2017. There are no issues. Jasuben, Damyanti and Vanita as well as Pradeep pre-deceased the deceased and Kalavati has given her consent to the Testamentary Petition.

**4.** The present Caveat has been filed by the Caveators who claim to be legal heirs of deceased two sisters, i.e. Jasuben and Vanita who pre-deceased to the deceased. The Application has been filed seeking dismissal of the Caveat on the grounds that Caveators have no

caveatable interest to object to the grant of letters of administration.

5. Learned counsel for Applicant submits that in view of provisions of Section 8 read with Section 9 of Hindu Succession Act, 1956, the succession opened on the date of death, i.e. on 26<sup>th</sup> January, 2018, on which date, the sisters of the deceased were not alive except Kalavati. He submits that the present Caveators would fall under Entry (IV) of Class II of Schedule to Hindu Succession Act, 1956 and considering the provisions of Section 9, the original Petitioner would be preferred as he would fall in the Entry II of Class II. He would further rely on the decision of learned Single Judge in the case of ***Panna Surendra Mehta vs. Purnima Latik Shah***<sup>1</sup> in respect of deceased Jaswantbhai Natwarlal Jolia.

6. *Per contra*, learned counsel appearing for Caveators would submit that the Caveators have a right to the estate of deceased through their mothers who were the sisters of the deceased. She would further submit that Applicant who has filed the Application seeking dismissal of the Caveat is the wife of original Petitioner, who was the brother of the deceased i.e. Suman claiming 1/5<sup>th</sup> share in the property and Caveators are claiming 4/5<sup>th</sup> share in the property of the deceased. She would further submit that there is one more bank account which has not been disclosed in schedule of the property in

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1 2017(2) ALLMR 278.

the above Petition. She would submit that the Applicant herself upon the death of Suresh would fall in Class II, Entry IV as that of Caveators and no preferred right can be claimed by the Applicant.

7. The decision in the case of ***Panna Surendra Mehta vs. Purnima Latik Shah*** (supra) in identical facts noted that succession opens on the date of death of deceased. Applying the decision to the facts of the present case, the deceased expired on 26<sup>th</sup> January, 2018 on which date, the sisters of the deceased through whom Caveators claim had expired and the brother, i.e. Suresh was alive and had applied for letters of administration. Suresh being the brother falls in Item (3) of Entry II of Class II of Hindu Succession Act 1956 whereas the Caveators would fall in Entry IV of Class II.

8. The provisions of Section 9 are material as it provides for the order of succession among heirs in the Schedule. Section 9 provides that those in Class I shall take simultaneously and to the exclusion of all other heirs and insofar as the heirs in Class II are concerned, those in the first entry in class II shall be preferred to those in the second entry, and those in the second entry shall be preferred to those in the third entry and so on in succession. In light of the statutory provisions, the original Petitioner being the brother of the deceased would fall in Entry II of Class II and would be preferred to Caveators who are the legal heirs of deceased sister falling in Entry IV of Class II. Though it is

sought to be contended that Applicant themselves would fall in Entry (IV) of Class (II), the succession opens on the date of the deceased which was in the year 2018 and the position prevailing on the date of death has to be taken into consideration.

9. In light of above, the Caveators do not have any caveatable interest. Resultantly, Interim Application is allowed in terms of prayer clause (a) of the Interim Application, which reads as under:-

**“(a)** That this Hon’ble Court be pleased to dismiss a Caveat (L) No. 276 of 2019 filed by Caveators in Testamentary Petition No. 908 of 2019.”

10. In view of dismissal of Caveat, Testamentary Suit No. 157 of 2024 stands dismissed.

11. Testamentary Petition No. 908 of 2019 to proceed in accordance with law.

**[Sharmila U. Deshmukh, J.]**