



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

INTERIM APPLICATION NO. 3892 OF 2024
IN
TESTAMENTARY SUIT NO. 53 OF 2013

Sunil T Parsani ...Applicant

In the matter between :

Ramesh T. Parsani ...Plaintiff

Versus

Suresh T. Parsani and Others ...Respondents

Mr. Aditya Pimple i/b Ms. Shivani Soni for Plaintiff.
Ms. Kajal Solanki, Ms. Aliya Tabassum i/b Samvad Partners for
Applicant/Defendant.

Coram : Sharmila U. Deshmukh, J.

Date : 4th December, 2025.

P. C. :

1. Interim Application has been preferred seeking disclosure on oath by Plaintiff and for direction to amend the suit to disclose the additional assets which according to Applicant has not been disclosed and which is tabulated at Exhibit-C.
2. At the outset, preliminary objection has been raised on behalf of learned counsel appearing for Plaintiff about maintainability of the Interim Application in view of Section 269(2) of the Indian Succession Act, 1925. To tide over the preliminary objection, learned counsel

appearing for Applicant would submit that under Section 269 of Indian Succession Act, 1925, the Court has power to interfere for protection of property. The said submission is clearly misconceived as it does not take into consideration the provision of sub-section (2) which makes Section 269 inapplicable where the deceased is a Hindu.

3. Learned counsel appearing for Applicant would submit that fraud has been played as the assets set out in Exhibit-C of the Application are not included in schedule of Assets while seeking probate of the Will of deceased by the Plaintiff.

4. In exercise of testamentary jurisdiction, this Court is concerned only with authenticity of the Will and does not have jurisdiction to decide any issue of right, title and interest in the testator's properties. It is trite that those alleged undisclosed assets which do not form part of schedule of assets will not be governed by the grant. In event, any fraud is alleged or any right, title and interest is claimed even in respect of property listed at Exhibit-C, it is open for the Applicant to take out appropriate civil proceedings in respect of same. The reliance placed on decision in the case of ***Haresh Ramesh Mehta vs. Reena Dharan Doshi***¹ is clearly misplaced as in that case, the Plaintiff as well as the Respondent had conceded that there are certain mistakes in schedule of assets and in view thereof, the Plaintiff was given

1 Interim Application No. 3121 of 2020 in Testamentary Suit No. 27 of 2020 decided on 24th September, 2020.

opportunity to adopt appropriate proceedings seeking amendment of schedule of assets annexed to probate proceedings. The said decision is not applicable to the facts of the present case.

5. Learned counsel appearing for Respondent has relied upon the decision of the case of ***Ramchandra Ganpatrao Hande vs. Vithalrao Hande***² which follows the decision in the case of ***Rupali Mehta vs. Tina Narinder Sain Mehta***³ and is squarely applicable to the facts of the present case. In that decision, the Hon'ble Division Bench of this Court considered the decision in the case of ***Thrity Sam Shoff vs. Shiraz Byramji Anklesaria***⁴ which held that the ambit of the words of "all matters connected therewith" have to be construed in relation to the grant of probate and letters of administration. The Hon'ble Division Bench held that such proceeding does not concern itself with title or even the existence of the property but only determines whether the Will was executed by the Testator of his own free will. The said decision is sufficient answer to the Interim Application filed.

6. In light of above, Interim Application stands dismissed.

[Sharmila U. Deshmukh, J.]

2 2011(4) Mh. L.J. 50.

3 2006(6) Mh. L.J. 786.

4 2007(4) Mh.L.J. 56.