

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

**INTERIM APPLICATION (L) NO.9688 OF 2024
WITH
INTERIM APPLICATION (L) NO.9687 OF 2024
WITH
INTERIM APPLICATION NO.4091 OF 2025
WITH
INTERIM APPLICATION NO.3997 OF 2025
IN
TESTAMENTARY SUIT NO.29 OF 2013
IN
TESTAMENTARY PETITION NO.1311 OF 2012**

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Bharat Amratlal Bhagat

...Applicant/Ori.
Plaintiff

Versus

Ranjana Rameshchandra Jethwa

...Caveatrix/
Defendant

*Mr. Rohan Kelkar a/w. Mr. Chirag Bhatia, Ms. Rashi Shah i/b. M/s.
Kartikeya and Associates, for the Plaintiff
Mr. Anand Kumar i/b. Mrs. Daulat Jehangir, for the Defendant.*

CORAM : SHARMILA U. DESHMUKH, J.

DATE : NOVEMBER 28, 2025

P. C. :

IAL No. 9688 of 2024 :-

1. The Interim Application has been preferred seeking the following reliefs.

a) This Court to allow the Applicant herein to carry out the amendment to the Schedule-I of the Petition by incorporating the current monies of Mr. A.C. Bhagat's estate corpus (as standing today) and more particularly described and annexed hereto as "Exhibit-I".

(b) This Court to pass an order under section 151 of the Code of Civil Procedure, 1908 to transfer the monies of Mr. A.C. Bhagat's estate corpus administered by the Administrator appointed by the Superior Court of New Jersey Chancery Division- Probate Part Essex County to this Court.

(c) This Court to pass an order under Order XL of the Code for appointing a Court Receiver to administer the transferred monies of Mr. A.C. Bhagat's estate corpus administered by the Administrator appointed by the Superior Court of New Jersey Chancery Division- Probate Part Essex County.

2. At this stage, learned counsel appearing for the Applicant does not press for prayer clause (b) and (c) and seeks liberty to file a fresh application if so deemed fit for the purpose of seeking relief in terms of prayer clause (c).

3. Learned counsel for the Applicant submits that the Testamentary Petition has been filed for Probate of last Will and testament of late Amratlal Chandulal Bhagat who expired in India on 11th January, 2012. The Applicant is the son of the deceased and executor under the Will dated 24th November, 1997. He submits that the Caveator has objected to the filing of the Testamentary Petition and the proceedings have

been converted into Suit. He submits that by the present application the Applicant only seeks to carry out amendment in the Schedule I of the Petition by incorporating the current monies of A. C. Bhagat's estate corpus (as standing today) and which is described in Exhibit I. He submits that there were certain proceedings in the United State of America regarding the estate of the deceased which culminated in a final judgment on 4th June, 2019 holding that no further application in respect of the estate may lay before the Court of United States. Pending *inter partes* litigation before Bombay High Court. He submits that an Administrator for the estate corpus consisting of monies which is the subject matter of the Interim Application was appointed with the U.S. Courts retaining ancillary jurisdiction over the same. He submits that by order dated 28th September, 2021, the U. S. Court granted an application by the U.S. Administrator to invest the estate corpus in his hands during the pendency of the proceeding in the Bombay High Court and presently the estate corpus comprises of sum of USD 932000. He submits that this Court by order of 6th June, 2016 had allowed the proposed amendment in similar nature to include an account at Habib Bank, Zurich in the Schedule of Assets of the deceased. He seeks a similar relief in the present case.

4. Per contra, the learned counsel for the Respondent submits that this Court would have no jurisdiction over the estate corpus which is

under the charge and custody of the Administrator appointed by the U.S. Courts. He has taken this Court in detail to the various orders which are passed by the U.S. Court and would submit that the relief cannot be granted as the U.S. Court has retained ancillary jurisdiction. He would further submit that subsequently the US Court had also permitted to substitution of the earlier Administrator and had vested the subsequent Administrator with certain powers as far as the estate of the deceased Amratlal Bhagat is concerned. He submits that the order of 6th June, 2016, does not assist the case of the Applicant as by that order what was granted is an amendment to include an account at Habib Bank, Zurich in the Schedule of Assets and in present case the relief sought is in respect of monies which are under the control and custody of the Administrator.

5. I have considered the submissions and perused the record.

6. Interim Application has been pressed only in terms of prayer clause (a) seeking to carry out the amendment to the Schedule-I of the Petition by incorporating the current monies of the deceased A.C. Bhagat's estate corpus which is USD 932000. The orders of the U.S. Court which are annexed to the Petition would clearly demonstrate that the Administrator's motion was granted and the Administrator was directed to prudently invest the Estate's assets until such time as the parties' contest in the Bombay High Court concludes and

distribution of the Estate's assets pursuant to the Court's instructions is warranted. Similarly, the application at page 45 filed by the Administrator which was granted by U.S. Court would indicate that the U.S. Court was conscious of the fact that because the Will's contest in India remains unresolved, these funds cannot be distributed because no competent Court has yet determined whether the estate assets should be distributed pursuant to 2003 Will or 1997 Will. Perusal of the various orders would indicate that the U.S. Court had retained the ancillary jurisdiction over the estate corpus till such time as this Court decides the issue pending in this Court as regards the Probate of the Will of the deceased. It is only after this Court in the Testamentary Suit concludes the issue of grant of Probate that the same will govern the distribution of the deceased's estate.

7. The submissions canvassed by the learned counsel for the Respondent is based upon a misconception that what is sought by the present application is transfer of monies which is under the charge and custody of the Administrator appointed by the U.S. Courts. At this stage all that is sought by the Applicant is an amendment in the Probate Petition to include monies which are part of the estate of the deceased and in the custody and charge of the Administrator appointed by the U.S. Court. Without this estate forming part of the Testamentary Petition, there can be no adjudication by this Court and

subsequently the U.S. Court will not be in position to decide the issue of distribution of the estate.

8. The order of 6th June, 2016 which was passed by this Court permitting an amendment to include an account at Habib Bank, Zurich in the Schedule of Assets of the deceased can similarly be passed in the present matter. Considering all that is sought is an amendment to the Schedule I of the Petition without any direction being sought as regards the monies which are under the charge and control of the Administrator, the Interim Application is allowed in terms of prayer clause (a).

9. As recorded by the order of 6th June, 2016, similarly in present case, it is clarified that grant of Interim Application is not to be construed as in any way being adverse to or derogating from the order of the U.S. Superior Court or its appointment of the Administrator *Pendente lite*. The amendment is allowed only for the sake of completeness of the listing of the estate.

10. Interim Application is allowed.

11. Amendment to be carried out within a period of two weeks.

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12. Interim Application is disposed of as withdrawn.

T.S. No. 29 of 2013 :-

- 13.** List on 11th December, 2025 for the purpose of recording further evidence of P.W-2.
- 14.** Statement of admission and denial of documents to be filed before the next date.

[SHARMILA U. DESHMUKH, J.]