

Ajay

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

MISCELLANEOUS PETITION NO. 213 OF 2025
IN
TESTAMENTARY PETITION NO. 484 OF 2023

Homi Ruttonshaw Meherji	.. Deceased
Nozer Soli Meherji	.. Petitioner
Versus	
Roxane Thomas Joseph	.. Respondent

-
- Mr. Prabhu Velar a/w. Ms. Bhakti Patil, Advocates for Petitioner.
 - Mr. Sahim Ansari, Advocate for Respondent.

.....

CORAM : MILIND N. JADHAV, J.
DATE : DECEMBER 05, 2025.

P.C.:

1. Heard Mr. Velar, learned Advocate for Petitioner and Mr. Ansari, learned Advocate for Respondent.

2. Present Petition is filed on 23.01.2025 seeking revocation of the Grant issued to Respondent. Petitioner is the nephew of the deceased whereas Respondent in whose favour is also niece of the deceased. Grievance in the Petition is that to the exclusion of Petitioner and other nephews and nieces the Grant has been obtained by Respondent. On record Respondent is represented by one Advocate called Sahin Ansari. On 07.11.2025 one Advocate Mr. Aryavrat Duby appeared and undertook to file Affidavit-in-Reply within two weeks from that date.

3. Mr. Velar, learned Advocate for Petitioner points out that the matter was first listed on 23.04.2025 wherein it is observed by this Court that directions for filing Affidavit-in-Reply had already been given. Thereafter the matter stood adjourned to 18.06.2025 but it is did not reached as per roznama placed before me. Thereafter matter has been listed before me on 03.10.2025 when the Advocate for Respondent was not present. This has been noted by me in the order.

4. Thereafter the matter appeared on 10.10.2025 once again when none appears for Respondent. On 10.10.2025, a direction was given by this Court to file Affidavit-in-Reply within four weeks from that date. Matter thereafter appeared on Board on 07.11.2025, on which date Advocate for Respondent and undertook to file Affidavit-in-Reply within two weeks. Thereafter matter appeared on Board on 28.11.2025 i.e. last week when Mr. Sahim Ansari appeared for Respondent. On that date, matter was argued by the Advocate for Respondent without filing Affidavit-in-Reply and this Court was informed that one week's time be granted to obtain the consent from Respondent for apprising the Court. Thereafter the matter was kept on 05.12.2025 i.e. today under the caption 'for orders'.

5. Today, when the matter is called out for hearing, Advocate for Respondent has appeared. Affidavit-in-Rely dated 05.12.2025 is filed today. Mr. Ansari submits that the Affidavit be taken on record

and appropriate order be passed by this Court. It is seen that in regard to the relationship of Petitioner with deceased as also the other 4 legal heirs, the same is not denied. *Prima facie* Petitioner has clearly made out the case for setting aside of the Grant. Grant was issued to Respondent on the premise that she was the only legal and to the exclusion of Petitioner and other surviving legal heirs as mentioned in paragraph No.4 of the Revocation Petition. Once that is the case, the issuance of Grant is unsustainable.

6. In view of the above, Petition therefore stands allowed in terms of prayer clauses 'a', 'b', 'c' and 'd' which read thus:-

- “(a) That pending the hearing and final disposal of the Petition the Respondent abovenamed be ordered and directed to forthwith deposit the original Succession Certificate issued to the respondent by this Hon’ble Court in Petition No. 484 of 2023 with the Prothonotary and Senior Master, High Court Bombay.*
- (b) That pending the hearing and final disposal of the Petition, if it is found that the Respondent has acted on the basis of the Succession Certificate and sold, transferred, alienated securities forming part of the estate of the deceased and/or Administered the estate of the deceased and/or created third parties right or transferred any right and/or encumbered the properties left by deceased then and in that event the Respondent shall be directed to deposit the amount received with the Prothonotary and Senior Master, High Court Bombay.*
- (c) That pending the hearing and final disposal of the Petition, this Hon’ble Court be pleased to restrain by an order and injunction to the Respondent or any one claiming through him from acting under said Succession Certificate and/or, the properties of the deceased and/or transferring, alienating and/or administering the estate of the deceased and/or creating third parties right, transferring any right and/or encumbering the estate of the deceased, under the said Grant;*
- (d) That the Succession Certificate granted by this Hon’ble Court in the respect of Homi Ruttonshaw Meherji the deceased tot he Respondent abovenamed, in Testamentary Petition No. 484 of 2023 – file of this Hon’ble Court be revoked, annulled, cancelled and set aside.”*

7. The original Grant issued by this Court is directed to be deposited in this Court forthwith by Respondent on having been served with a copy of this order.

8. Misc. Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

Ajay

Digitally signed
by AJAY
TRAMBAK
UGALMUGALE
Date: 2025.12.06
17:12:46 +0530