

Amberkar

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

PETITION NO. 5143 OF 2024

Radha Krishna Patkar .. Deceased

Disha Pravin Sukalwadkar .. Petitioner

WITH
MISC. PETITION NO. 558 OF 2024

Radha Krishna Patkar .. Deceased

Pratiksha Chandan Manjrekar .. Petitioner

-
- Mr. Yashika Jain a/w Ms. Kalpana Trivedi, Advocates for Petitioner
-

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 25, 2026

P. C.:

1. Not on board. Mentioned by way of filing a praecipe dated 25.03.2026.
2. Heard Mr. Jain, learned Advocate for Petitioner.
3. Considering that the property is identical in respect of the Petitions filed for Letters of Administration and Legal Heirship Certificate in view of separate demands made by the Co-operative Housing Society and the Bank, request made to Court by filing a praecipe dated 25.03.2026 deserves to be considered.

4. It is *prima facie* seen that Misc. Petition No. 558 of 2024 which was allowed by this Court on 08.01.2025 pertains exclusively to the tenanted premises which was distinct from the Petition No. 5143 of 2024 filed solely in respect of ownership premises belonging to the deceased. It is also seen that Schedules filed in both the Petitions are entirely different and independent of each other. Therefore strictly speaking both the Petitions cannot be deemed to be cross-Petitions since they were in respect of two different properties. However, both the properties belonged to the same deceased. In that view of the matter, the requisition and objection taken by Department regarding statement to be made about pendency of cross-Petition stands dispensed with. It is also seen that consent of the legal heirs in both the Petitions has been obtained and placed on record. Same are appended to the said Petitions.

5. Next Ms. Jain has persuaded me to consider levying of Court fees in one Petition and refund of Court fees in the second Petition. It is argued by Ms. Jain that in view of the exigency which had arisen i.e. Society had demanded Letters of Administration whereas Bank had demanded Legal Heirship Certificate and hence, two Petitions came to be filed. It is seen that Court fees of Rs. 75,000/- has been paid in Testamentary Petition No. 5143 of 2024 whereas Court fees of Rs. 33,000/- has been paid in Misc. Petition No. 558 of 2024. In view of

the fact that both the properties belonging to the same deceased and considering proviso to Article 10 of the Schedule I of the Maharashtra Court-fees Act which *inter alia*, pertaining to Letters of Administration since both the properties belonged to the same deceased, it is directed that Court fees of Rs. 75,000/- which has been paid in Testamentary Petition No. 5143 of 2024 shall stand retained against both Petitions whereas Court fees of Rs. 33,000/- which has been paid in Misc. Petition No. 558 of 2024 is directed to be refunded to the Petitioner in accordance with law.

6. The Registry shall issue the refund certificate for Court fees within a period of two weeks from today on the basis of a server copy of this order. The refund certificate shall be submitted by Petitioner to the Collector of Stamp Duty, First Floor, Old Customs House, Mumbai which is the concerned office. Copy of this order shall also be served on the Collector of Stamps, First Floor, Old Customs House, Mumbai.

7. I am informed by several parties who seek such refund that an extraordinary long period of time is taken for refund of the Court fees from the Collector's Office and thereafter from the Pay and Accounts Office. Collector of Stamps shall personally look into this and ensure that the Plaintiff is refunded the Court fees on presentation of a server copy of this order and the refund certificate / letter is issued within a period of four weeks thereafter at the highest. Petitioner shall give all

other details to the Collector of Stamps and the aforesaid order shall be complied with strictly.

8. I am informed that refund of Court fees is then actually issued by the Pay and Accounts Department situated at Bandra. Copy of this order shall also be placed before the Collector of Stamps, Mumbai City and Collector of Stamps, Mumbai MSD and the In-charge of Pay and Accounts Department, Bandra.

9. I am informed that after refund certificate is filed, Collector of Stamps Office has to issue letter / some order to the Pay and Accounts Department for generating the refund and the refund is thereafter received from the Pay and Accounts Department of the State of Maharashtra situated in Bandra. In-charge of the Pay and Accounts situated at Bandra is therefore directed to ensure that whenever letter regarding for refund of Court fees is received from the Office of the Collector of Stamps, the same shall be complied with by its Office within a period of four weeks from the date of receipt of such request and there shall be no delay in this compliance and refund whatsoever.

10. This order is issued by Court because this Court in the present roster has received several complaints that even after orders for refund are issued by the Registry of this Court, *inter alia*, relating to refund of

Court fees the same takes an invariably long period of time to get the refund of Court fees and sometimes more than a year.

11. Copy of this order shall be placed before the Registrar General of this Court and he is directed to inform the aforementioned Authorities to ensure that the concerned Government Officers shall comply with the above directions and timeline in the interest of the litigants as soon as the refund certificate is issued within the time stipulated in this order.

12. Collector of Stamps, Mumbai City and Collector of Stamp, MSD are also directed to take cognizance of this order and ensure that compliance of timelines given in this order are duly complied with in all cases of refund of Court fees which are granted by this Court.

13. With the above directions, Praecipe is disposed.

Amberkar

[MILIND N. JADHAV, J.]

Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
Date:
2026.03.25
19:42:38 +0530