

Amberkar

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

INTERIM APPLICATION NO. 1605 OF 2024

IN

CAVEAT NO. 126 OF 2023

IN

TESTAMENTARY PETITION NO. 2522 OF 2021

Meetaba Ramnarayan Singh .. Applicant

In The Matter Between

Ram Narayan Shitalprasad Singh .. Deceased

Meetaba Ramnarayan Singh .. Plaintiff

Versus

Dev Narayan Shitalprasad Singh .. Defendant

WITH

INTERIM APPLICATION (L) NO. 2361 OF 2025

WITH

TESTAMENTARY SUIT NO. 91 OF 2023

WITH

CAVEAT NO. 126 OF 2023

IN

TESTAMENTARY PETITION NO. 2522 OF 2021

WITH

WILL NO. 1018 OF 2021

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- Ms. Ratna Bhargavan a/w Mr. Rahul Yadav i/by R. Bhargavan & Associates, Advocates for Applicant - Org. Petitioner
- Ms. Jyoti Chavan, Advocate for Defendant / Caveator
- Mr. Vinod Singh, Power of Attorney Holder of Caveator present

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 16, 2026

P.C.:

1. Heard Ms. Bhargavan, learned Advocate for Applicant - Org. Petitioner and Ms. Jyoti Chavan, learned Advocate for Defendant - Caveator.

2. After hearing both the learned Advocates and expressing my mind, Ms. Chavan takes instructions from the Caveator who is present in Court. She would submit that in view of the expression of the Court that Caveator is Class-II legal heir, her statement with respect to Caveator's interest in one of the properties belonging to the deceased be noted by Court. She would submit that Flat Nos. 102 and 103 situated at Siddharth Nagar, Goregaon are in fact according to the Caveator ancestral properties. She would submit that in that regard, claim of Petitioner cannot be made absolute. Insofar testamentary jurisdiction of this Court is concerned, it gets guided by the principles of law. Admittedly, the Caveator is a Class-II legal heir and therefore insofar the proceedings before this Court are concerned, *inter alia*, seeking probate of the last Will and Testament of the deceased is concerned, he is neither a beneficiary or legatee and hence there can be no impediment for the same to be allowed.

3. There are four proceedings which are filed in the Court before me. Testamentary Petition No. 2522 of 2021 is filed by Petitioner wife

of deceased seeking probate of the last Will and Testament of the deceased dated 19.04.2018 wherein bequeathal is entirely made to the executor and beneficiary i.e. the wife of the deceased. Son of the deceased who was minor i.e. 16 years old has attained majority today. Both the Petitioner and her son are present in Court. Son gives his consent to the Petitioner. Second proceeding is a Caveat numbered as No. 126 of 2023 which is filed on 28.02.2022 along with affidavit in support thereof dated 17.06.2022. This Caveat is filed by brother of the deceased. Admittedly he is a Class-II legal heir. Ms. Chavan after arguing the matter in her usual fairness and on taking instructions from the Caveator who is present in Court would submit that the Caveator's claim is only restricted to a share in one of the immovable property out of the four properties which are stated at page No. 178 namely the Goregaon property and that too only to the extent of his share therein on the premise that the said property was originally ancestral property. Be that as it may, considering that the property stands in the name of the deceased, this Court cannot adjudicate the issue of title and or partition or entitlement of the Caveator in these proceedings. Needless to state that Caveator can undoubtedly approach the Civil Court and file appropriate proceeding in the Civil Court and seek remedy to the extent of his share and title in the subject property in accordance with law.

4. Apart from the aforesaid two proceedings, there are two Interim Applications. Interim Application No. 1605 of 2024 is filed by Petitioner seeking dismissal of Caveat whereas Interim Application(L) No. 2361 of 2025 is filed by Caveator for injunction and Court Receiver in respect of the properties belonging to deceased. However in view of the submission made by Ms. Chavan that the Caveator is ready and willing to approach the Civil Court to the extent of determining his claim of share in one of the property belonging to the deceased as noted herein above, Interim Application No. 1605 of 2024 filed by Petitioner will have to be allowed. Rather Ms. Chavan submits that she would withdraw the Caveat. Caveat No. 126 of 2023 is allowed to be withdrawn and stands disposed of. Interim Application No.1605 of 2024 does not survive and is disposed. In this view of the mater, Interim Application (L) No. 2361 of 2025 stands dismissed as it is infructuous.

5. Leave is granted to the Caveator to approach the Civil Court and file appropriate Civil Proceedings and obtain appropriate injunctive relief, if so desired, in accordance with law with respect to the concerned subject property.

6. In view of the above, since the Caveat is withdrawn there can be no impediment insofar allowing the present Testament Petition is concerned which is pending since the last five years on the record and

file of this Court. Hence, Testamentary Petition No. 2522 of 2021 stands allowed. Department shall proceed with issuance of grant to Petitioner strictly in accordance with law on all office objections being removed and on all compliances being done by Petitioner. Grant shall be prepared by Department and it shall be issued after a period of six weeks i.e. on 30.03.2026. Only as a matter of abundant precaution, if Caveator approaches the Civil Court with respect to his claim of share in one property which is the subject matter of the grant in the last Will and Testament of the deceased and obtains any order from the Civil Court, same shall be placed before this Court for passing further appropriate orders and modification so that withholding of grant need not be done insofar as the other properties of the deceased are concerned which undoubtedly the wife is entitled to as the beneficiary. Needless to state that this Court has not expressed any opinion on merits of the matter argued by the learned Advocates at the bar.

7. All contentions of the parties *qua* the subject property as stated herein above are expressly kept open. Needless to state that Petitioner is entitled to appear and oppose any relief sought by the Caveator in the appropriate Suit proceedings if so filed and no order shall be obtained behind the Petitioner's back.

8. Testamentary Petition stands allowed in the above terms. Department to proceed in accordance with law.

9. Insofar as the fifth property namely the agricultural land at district Pratapgarh in the state of UP is concerned, Petitioner has already deleted the same from the schedule of properties and rights in respect of the said property shall be exercised in accordance with law subject to the outcome of the Civil Suit pending therein.

10. Testamentary Petition is allowed and disposed in above terms. Both the Interim Applications are disposed. Testamentary Suit is disposed. Caveat is disposed.

Amberkar

[MILIND N. JADHAV, J.]

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by RAVINDRA
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