

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

INTERIM APPLICATION (L) NO. 36342 OF 2025
IN
TESTAMENTARY SUIT NO. 42 OF 2001
IN
TESTAMENTARY PETITION NO. 208 OF 2001

Subhash Parmanand Muzumdar ... Applicant

In the matter between

Dr. Kumudish Parmanand Muzumdar
(since deceased) & Anr. ... Plaintiffs

V/s.

Rekha Ashok Muzumdar ... Defendants

Adv. Karan Bhosale, Adv. Harsh Savant a/w. Adv. Anuja Divadkar and Adv.
Yashwant Singh i/b. NDB Law for Applicant/ Plaintiffs.

Adv. V. S. Kapse for Defendant.

CORAM : FARHAN P. DUBASH, J.

DATE : 12th JANUARY 2026

P. C.:

INTERIM APPLICATION (L) NO. 36342 OF 2025

1. The present Interim Application seeks amendment to the
Testamentary Suit bearing No. 42 of 2001 to bring on record the legal heirs

and representatives of the deceased Plaintiff No. 1 who passed away on 1st October 2012. There is a delay of 4699 days in filing the present Interim Application.

2. The reason for this delay is sufficiently explained in the present Interim Application. It appears that on or about January 2013, the Applicant/Plaintiff No. 2 had preferred Chamber Summons No. 95 of 2013. In paragraph 1 of the Affidavit-in-Support of the said Chamber Summons, it is clearly set out that the said Chamber Summons seeks to bring on record the legal heirs and representatives of the deceased Plaintiff No. 1 and Defendant No. 1. In paragraph No. 2 it is set out that Plaintiff No. 1 had expired on 1st October 2012 leaving behind his wife and daughter as his legal heirs. However, inadvertently it appears that though these particulars were set out in the Affidavit-in-Support of the said Chamber Summons, the only relief sought was to bring on record the legal heirs and representatives of Deceased No. 1. By an order dated 7th January 2014, the said Chamber Summons came to be allowed by consent of parties and the Plaintiff was permitted to amend the Plaint in terms of the Schedule annexed therein.

3. Due to the passage of time, this inadvertent mistake went unnoticed until there was a change in Advocates appearing on behalf of the Plaintiffs. This has prompted the Plaintiffs to now prefer the present Interim Application.

4. Mr. Karan Bhosale, learned Counsel who appears on behalf of the Applicant/Plaintiff has taken me through the averments in the present Interim Application. For the reasons stated therein, I am of the view that sufficient cause has been made out for condoning the said delay. Accordingly, the present Interim Application is allowed in terms of the following order :

:: ORDER ::

(i) Delay of 4699 days in filing the present Interim Application is hereby condoned and the Applicant/Plaintiff is permitted to amend the Plaint in terms of the Schedule annexed to the present Interim Application and bring on record Plaintiff Nos. 1A and 1B in place of the deceased original Plaintiff No.1. Reverification is dispensed with.

(ii) Present Interim Application is accordingly disposed of with no orders as to costs.

(iii) This Amendment shall be carried out on or before 19th January 2026. A copy of the amended Plaintiff shall be served on the Defendants on or before 27th January 2026 and an Affidavit-of-Service to that effect shall be filed before the next date.

INTERIM APPLICATION NO. 4072 OF 2025

5. Mr. Bhosale, learned Counsel who appears on behalf of the Plaintiff states that his clients have also filed an earlier Interim Application bearing No. 4072 of 2025 for seeking various interim reliefs. He makes an oral request that the cause title of the said Interim Application be permitted to be amended in terms of the same Schedule that is annexed to the Interim Application (L) No. 36342 of 2025 for which amendment has been permitted to be carried out in the Plaintiff. The said request is granted. Cause title of the said Interim Application shall also be amended on or before 19th January 2026. A copy of the amended Plaintiff shall be served on the Defendants on or before 27th January 2026 and an Affidavit-of-Service shall be filed before the next date.

6. Mr. Kapse, learned Counsel who appears on behalf of the Defendants tenders a copy of an Affidavit-in-Reply dated 3rd July 2025 to the said Interim Application on behalf of the Defendant Nos. 1A to 1C. The same is taken on record.

7. Plaintiffs have filed an Affidavit-in-Rejoinder dated 16th December 2025. The same is also taken on record.

8. Place the Interim Application for consideration on 2nd February 2026.

(FARHAN P. DUBASH, J.)

Ajay Jadhav
34.IA(L)/36342/2025 & IA/4072/2025