



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

MISC. PETITION NO. 394 OF 2025
IN
TESTAMENTARY PETITION NO. 1500 OF 2017

Sunil Kishan Parwani

...Petitioner

Versus

Bhagwan Udham Parwani

...Respondent

Mr. Chintan Shah i/b Niyam Basin for Petitioner in MPT No. 14981 of 2025.

Mr. Sunil Kishan Parwani, Petitioner present in person.

Mr. Sunil Kanojia for Respondents.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 29th APRIL, 2026

P. C. :

1. Miscellaneous Petition has been preferred under Section 263 of Indian Succession Act, 1925 seeking revocation of letters of administration granted on 2nd February, 2024 in Testamentary Petition No. 1500 of 2017 in respect of the property of the deceased Udham Amumal Parwani.

2. The Petition pleads that the Petitioner is the son of Kishan Parwani and grandson of the deceased Udham Amumal Parwani. The Respondent filed Testamentary Petition in the year 2017 seeking

letters of administration in respect of the estate of the deceased. The father of the Petitioner Kishan Udharam Parwani expired on 4th February, 2012 whereas the deceased Udharam had expired on 25th February, 2008. At the time of filing of the Testamentary Petition in 2017, the Petitioner who was the legal heir of Kishan Parwani was not cited and the Testamentary Petition does not plead about Kishan Parwani. The Petition further pleads that there were six children of deceased and only four children were cited in the Testamentary Petition.

3. In the Affidavit-in-reply, it is pleaded that name of all legal heirs of the deceased who were known to the Respondent were cited. The reply further denies that the Petitioner is the grandson of the deceased. It is contended that the Respondent's brother Kishan Parwani was married to one Ms. Rekha and they were residing separately and subsequently, they were separated. The Respondent was informed by Kishan that he had divorced his wife and he was living alone and that the Respondent was not aware that there were any children born of wedlock and does not admit that the Petitioner is the son of Kishan.

4. Learned counsel appearing for Petitioner would point out to ration card in which the name of the present Petitioner is mentioned along with other family members. He would further point out birth

certificate of the Petitioner wherein the name of father Kishan Parwani has been mentioned. He submits that there is no pleading in the Testamentary Petition about Kishan Parwani.

5. *Per contra*, learned counsel appearing for Respondent admits that the present Petitioner was not cited. He submits that as the Respondent is not having knowledge about son of Kishan, he was not cited. He would deny that Petitioner is legal heir of Kishan. He submits that Kishan and his wife were separated and there was no information about child being born of said wedlock.

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

7. The Testamentary Petition was filed by the Respondent and in paragraph no. 4 of the Petition, details about the heirs and next of kin of deceased are set out. Perusal of the said paragraph would indicate that there is no mention about Kishan Parwani. There is no denial to the fact that Kishan was one of the sons of the deceased. Kishan had expired on 4th February, 2012 and the deceased Udharam had expired on 25th February, 2008. At the time when succession was opened, the heirs of Kishan were entitled to the share in estate of the deceased and the legal heirs of the deceased-Kishan were required to be cited.

8. Even accepting that the Respondent was not aware of the son of Kishan, the Testamentary Petition should have pleaded about Kishan. The Testamentary Petition does not make any mention about Kishan

Parwani. The pleading in the present Affidavit-in-reply as regards the separation of Kishan from his wife and absence of any knowledge about the son does not assist case of the Respondent as there is no such pleading in the Testamentary Petition. It is not even pleaded that Kishan was one of the sons of the deceased who had expired on 4th February, 2012.

9. The Petitioner has placed on record the birth certificate and the ration card in order to demonstrate the relationship with Kishan. It was necessary for the Respondent to cite the present Petitioner or at least plead about Kishan and his death.

10. The provisions of Section 263 of Indian Succession Act, 1925 provides for revocation of grant for just cause and Explanation provides that just cause shall be deemed to exist where the grant was obtained fraudulently by making a false submission or concealing from the Court something material to the case. The illustration gives example of failing to cite the parties who ought to have been cited. For the purpose of obtaining grant, it was necessary for the Petitioner to plead about Kishan who was the son of Udham. The provisions of Section 263 provides for revocation for just cause and in the present case, as there is concealment of material fact about Kishan, who was one of the legal heirs of the deceased, this is a fit case where power ought to be exercised under Section 263 of Indian Succession Act,

1925.

11. Resultantly, the Petition succeeds.

12. The letters of administration granted on 2nd February, 2024 in Testamentary Petition No. 1500 of 2017 is revoked.

13. The Respondent is directed to surrender the original letters of administration to the office of learned Prothonotary and Senior Master on or before 10th June, 2026.

[SHARMILA U. DESHMUKH, J.]