

Amberkar

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

**INTERIM APPLICATION (L) NO. 37662 OF 2025
IN
CAVEAT NO. 48 OF 2026
IN
TESTAMENTARY PETITION NO. 3081 OF 2025
WITH
WILL NO. 1181 OF 2025**

Laxmi Chetan Rajgor alias
Laxmiben Ramesh Rajgor

.. Deceased

Usha Chetan Rajgor

Applicant
.. (Org. Petitioner)

IN THE MATTER BETWEEN:-

Usha Chetan Rajgor

.. Petitioner

Versus

Narendra Ishwarlal Rajgor

.. Caveator

**WITH
TESTAMENTARY SUIT NO. 45 OF 2026
IN
TESTAMENTARY PETITION NO. 3081 OF 2025**

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- Mr. Priyank P. Kulkarni i/by Mr. Hardik Shah, Advocates for Applicant - Org. Petitioner
 - Mr. Suraj Naik i/by Mr. Atmaram Patade, Advocate for Caveator
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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 20, 2026

P. C.:

1. Heard Mr. Kulkarni, learned Advocate for Applicant - Org. Petitioner and Mr. Naik, learned Advocate for Caveator.

2. Present Interim Application is filed for dismissal of the Caveat. Caveator is the brother of husband of the deceased. Petition is filed for issuance of grant i.e. Letters of Administration with Will annexed in respect of the property and credits of deceased Laxmi Ramesh Rajgor alias Laxmiben Ramesh Rajgor. The deceased has bequeathed 50% of her right, title and interest in the immovable property to Petitioner who is the daughter-in-law of the deceased. Registered copy of the Will is appended at page No. 35 of Petition. I have perused the same.

3. Caveat is filed on the premise that subject property belonged to the deceased on the basis of succession received from the estate of one late Ms. Javerbai Ishwarlal Rajgor who had in all 9 children i.e. 4 sons and 5 daughters.

4. Learned Advocate for Caveator would submit that deceased Laxmi is wife of one of the son of late Javerbai i.e. daughter in law. According to the Caveator, subject property bequeathed in the Will belongs to the estate of late Javerbai and is required to be apportioned to the extent of 1/9th share each and therefore bequeathal of the same in favour of Petitioner has been challenged.

5. *Prima facie* it is seen that there are no proceedings taken out whatsoever by the Caveator in respect of seeking apportionment of the

shares of respective legal heirs of late Javerbai. The only civil proceedings which has been filed by the Caveator is a Suit after the demise of deceased bearing Suit No. 1948/2024 in the Civil Court seeking declaratory relief in terms of the alleged share claim of Caveator and partition of the subject property. Suit is filed in 2024. I am informed that Exh. 5 Application has already been filed but the Caveator has not been able to procure any interim relief therein. Merely on the basis of averments and grounds which are stated in the affidavit in support of the Caveat which are not supported and substantiated by any cogent and relevant material, the Caveat is *prima facie* not maintainable. Even otherwise Caveator has himself stated in the affidavit in support of the Caveat that he is only concerned about his 1/9th share in the immovable property belonging to the deceased. The claim of Caveator emanates from the substantive right of predecessor-in-title of the deceased and to that extent, Caveator has not taken any steps whatsoever. Merely by stating that the Will is bogus, fabricated and forged in the additional affidavit in support filed by the Caveator does not make out any case whatsoever on behalf of the Caveator when substantive right of the Caveator is required to be espoused with regard to the Caveator's right and share in respect of the subject immovable property. What is more intriguing is the fact that Caveator himself categorically states that he has no objection if

the Will is propounded by the Petitioner which *prima facie* implies that he is not doubting the genuineness and correctness of the Will of the deceased. This issue involves claim of title / partition / shares and cannot be dealt with by this Court in the present proceedings. Caveator is therefore required to approach the Civil Court and obtain appropriate orders with respect to Caveator's alleged share in accordance with law. Keeping all contentions of the Caveator open, Caveat is dismissed. Interim Application stands allowed.

6. It is made clear that this order shall not affect the Suit proceedings filed by the Caveator.

7. Department shall proceed further with issuance of grant in accordance with law.

[MILIND N. JADHAV, J.]

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