

HARSHADA H. SAWANT
(P.A.)

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

INTERIM APPLICATION NO.260 OF 2026
IN
CAVEAT NO.351 OF 2025
IN
TESTAMENTARY SUIT NO.289 OF 2025
IN
TESTAMENTARY PETITION NO.4381 OF 2025

Dorab Furdoonji Seervai	.. Deceased
Yasmin Nariman Katpitia and Anr.	Applicants .. (Org. Plaintiffs)
IN THE MATTER BETWEEN:	
Yasmin Nariman Katpitia and Anr.	Plaintiffs/ .. Petitioners
Versus	
Tarique Aziz Vakil Ahmed Reshamwala	.. Caveator

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- Ms. Kirtida Chandavana, Advocate i/by M. Humranwala for Applicants / Petitioners.
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 16, 2026

P.C.:

- 1.** Not on Board. Mentioned by way of filing praecipe dated 16.01.2026. Perused the praecipe.
- 2.** Heard Ms. Chandavana, learned Advocate for Applicants / Petitioners.
- 3.** Petitioners have filed Testamentary Petition seeking issuance of Grant in respect of last Will and Testament of the deceased namely Dorab Furdoonji Seervai. That Testamentary Petition has been

converted into a Suit bearing No.289 of 2025 on the basis of Caveat filed by Caveator bearing No.351 of 2025. Petitioners have filed present Interim Application seeking dismissal of the Caveat. It is mentioned before me for Circulation.

4. Ms. Chandana informs the Court that affidavit-in-support of the Caveat is appended at page No.29. She would submit that paragraph No.3 of the said Affidavit is the source of entitlement claimed by the Caveator. She would submit that Caveator claims that subject property of the Grant belonging to the deceased is claimed to be owned by Caveator through Testamentary Succession from his grandfather under a duly probated Will dated 05.03.2018 in Testamentary Petition No.2213 of 2024 and followed by a transfer deed dated 10.12.2024 in his favour.

5. She would submit that in so far as subject property of the Grant is concerned, it belongs to Petitioners through a series of succession from their predecessor which are well documented. However the Caveator in paragraph No.6 of his affidavit-in-support states that he is not the legal heir or representative of the deceased Dorab Fudoonji Seervai and that he has set up his own independent title to the subject property.

6. If this is the case of the Caveator then the Caveator needs to place on record the details of his title as enumerated in paragraph No.3

of his affidavit-in-support and grant appropriate inspection to the Advocate for the Petitioners / Plaintiffs to meet his case. Merely filing such Affidavit is not helpful to the Caveator. This is because Petitioners have filed the present Interim Application seeking dismissal of the Caveat.

7. Though Ms. Chandana would submit that appropriate remedy for the Caveator is to file and set up his title by an appropriate Civil Suit, considering the averments made in paragraph Nos.3 and 6, same shall be considered after hearing the Caveator on the next adjourned date subject to compliance of following directions.

8. In the meanwhile, Caveator is directed by this Court to furnish the documentary evidence referred to in paragraph No.3 of his Affidavit to the Advocate for Petitioners / Plaintiffs. After the documentary evidence is furnished, if the Plaintiff's Advocate desires inspection of the originals, the same shall be given by the Advocate for Caveator in his office to the Advocate for Petitioners / Plaintiffs by fixing a date before the next date.

9. This order is passed to enable the Petitioners / Plaintiffs to consider the case of Cavetor and place the Petitioners / Plaintiffs objections before the Court. Today, in so far as the Caveat which has been filed is concerned, it does not append the relevant documentary evidence. It is only a mere statement made on Affidavit. That

statement will have to be qualified. Hence the above order is passed.

10. All contentions of Petitioners / Plaintiffs as also the Caveator are kept expressly open by this Court.

11. Copy of this order shall be served on Caveator by Advocate for Petitioners / Plaintiffs alongwith copy of Interim Application seeking dismissal of the Caveat. Appropriate affidavit-of-service to that extent shall be filed.

12. Let the above exercise be carried out within a period of two weeks from today *inter se* amongst the Advocate without recourse to the Court

13. Caveator is directed to remain present either himself or through his Advocate on the next adjourned date to enable the Court to consider the matter further.

14. Stand over to **30th January, 2026**. To be placed under the caption '**For Directions**'.

15. Praecipe is disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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