

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

INTERIM APPLICATION NO. 1093 OF 2026
IN
TESTAMENTARY SUIT NO. 8 OF 2009
IN
TESTAMENTARY PETITION NO. 959 OF 2008

Rina Dabestani ... Applicant

In the matter between

Khimmi Shaam Gurani alias Lalita Shaam Gurani ... Deceased

Rina Dabestani ... Petitioner

V/s.

Shaam M. Gurnani ... Caveator

Ms. Kanchan Pamnani for the Applicant.

CORAM : FARHAN P. DUBASH, J.

DATE : 25th MARCH 2026

P. C.:

1. The present Interim Application has been filed by the Applicant, who is the Original Petitioner in Testamentary Petition No. 959 of 2008, which has since been converted into Testamentary Suit No. 8 of 2009 pursuant to a Caveat dated 27th January 2009 filed by the Caveator Shaam M. Gurnani, who is the husband of the deceased and the father of the Petitioner herein.

2. The Application states that the Caveator has since passed away on 18th January 2011 and since then, no other person has come forward and

filed any Caveat and/or supported the Caveat that was filed by the Caveator. The deceased and the Caveator have three children – the Petitioner herein, another daughter Resham, who has filed her Affidavit dated 27th July 2017 consenting to probate being granted in favour of the Petitioner herein in respect of the last Will and Testament dated 22nd February 1994 in respect of their deceased mother who passed away on 5th June 1995. In addition, the Petitioner and Resham have a brother - Robindra. The Bailiff of the Sheriff's office has filed an Affidavit-of-Service dated 21st June 2018 confirming that citation together with a true copy of the Petition has been served on the said Robindra. However despite such service, Robindra has not come forward and filed any opposition to the present Petition.

3. In these circumstances, Ms. Kanchan Pamnani, learned Counsel who appears on behalf of the Applicant, states that the Caveat dated 27th January 2009 filed by the Caveator is required to be discharged and since there is no other challenge to the Petition, office be directed to proceed with and issue the grant of Letters of Administration as per rules.

4. Having heard learned Counsel for the Applicant and after perusal of the record before this Court, I am of the view that since no other person has come forward and filed any Caveat and/or sought any extension of the Original Caveat filed by the Caveator who has passed away more than 15 years ago viz, on 18th January 2011, nothing survives in the matter and the Caveat is required to be discharged.

5. Accordingly, the Caveat is hereby discharged and the Testamentary Suit is disposed of in terms.

6. Since there is no challenge to the Testamentary Petition which seeks Letters of Administration in respect of the last Will and Testament dated 22nd February 1994 of the deceased, office shall proceed to issue the grant of Letters of Administration as per rules.

7. Testamentary Petition is allowed in terms of the above order with no order as to costs. Interim Application is disposed of in the above terms.

(FARHAN P. DUBASH, J.)

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