

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

**INTERIM APPLICATION NO. 3677 OF 2024
IN
CAVEAT IN TESTAMENTARY NO. 205 OF 2026
IN
PETITION NO. 1314 OF 2021**

MOHAMMEDALI ABDULLAH SABUWALA)...DECEASED

GULAMMOHAMED ROSHANALI LAKHANI)...APPLICANT

IN THE MATTER OF

**GULAMMOHAMED ROSHANALI LAKHANI)
AND OTHERS)...PETITIONERS**

V/s.

MOHAMMED AMIN M SHAFI QURESHI)...RESPONDENT

**WITH
TESTAMENTARY SUIT NO. 131 OF 2026
IN
TESTAMENTARY PETITION NO. 1314 OF 2021
WITH
TESTAMENTARY PETITION (L) NO. 8768 OF 2020**

Mr.Rahul Soman a/w. Mr.Sandeep Dhangar i/by Jayesh Vyas, Advocate
for the Petitioners.

Mr.Anthony Fernandes i/by Mr.Waquar Ahmed, Advocate for the
Caveator.

CORAM : ABHAY AHUJA, J.

DATE : 11th AUGUST 2026

PC. :

INTERIM APPLICATION NO. 3677 OF 2024

1. This Interim Application seeks rejection of Caveat dated 7th October 2020 and Affidavit in support of the Caveat dated 15th October 2020 filed by the Caveator viz. Mohd. Amin M. Shafi Qureshi.

2. Mr.Soman, learned Counsel appearing for the Applicant, submits that the Applicant is the Petitioner in Testamentary Petition No.1314 of 2021 by which probate of the last Will and Testament of the deceased viz. Mohammedali Abdullah Sabuwala dated 4th December 2013 which Will has been numbered as Will No.528 of 2021 had been sought. Mr.Soman submits that by order dated 30th September 2024 of the Additional Prothonotary & Senior Master, the Petition was allowed and the office was directed to issue probate as prayed for after verifying whether any cross Petition or Caveat was filed. Mr.Soman submits that despite the said order, no probate was issued but a Caveat dated 7th October 2024 by Mr.Mohammad Amin M. Shafi Qureshi was entertained by the Testamentary department and not only that, the Petition of the Petitioner which was allowed and in which a direction to issue probate was also granted, was converted into a Suit, and therefore, no grant has been issued, till date. That, therefore, this

Interim Application has been filed not only seeking rejection of the Caveat but also a direction to the Prothonotary & Senior Master of this Court to issue probate of the last Will and Testament dated 4th December 2013 of Mohammedali Abdullah Sabuwala pursuant to order dated 30th September 2024.

3. Mr.Soman submits that the Caveator has nothing to do with the property of the testator in question and the entire bequest under the Will is to a charity, but just because the probate was not issued pursuant to order dated 30th September 2024, undue advantage of the delay was taken by the Caveator and the Caveat was filed and surprisingly even accepted by the Registry without any objections. Mr.Soman submits that, therefore, this Court's intervention would be necessary as in several other matters, particularly where the bequest is to a charity, that elements with vested interests thwart the execution of the probated Wills. Mr.Soman submits that in addition to allowing this application, this Court may also, therefore, issue general directions to the Testamentary department to issue the grant as on the date of the order directing issuance of such grant, as otherwise, unscrupulous elements would thwart the execution of probated Wills or even issuance of grant, as in this case. Mr.Soman submits that despite the order dated 30th

September 2024, no probate has been granted by the Registry whereas the Caveat dated 7th October 2024 and the Affidavit in support of the Caveat dated 15th October 2024 had been entertained and the Petition which had been disposed of by directing grant of the probate has been converted into a Suit.

4. Mr. Anthony Fernandes appears for the Caveator and submits that Mr. Waquar Ahmad is the Advocate for the Caveator and he is only holding for him to seek time.

5. When the matter is listed on board, it is surprising that the Advocate on record is missing and a holding Advocate has come to ask for time.

6. While this Court will pass orders on the specific prayers in this application after hearing Mr. Waquar Ahmad for the Caveator, in the meanwhile, in the interest of justice, this Court deems it appropriate to issue general directions to the Registry and officers attending to matters under the Testamentary and Intestate Jurisdiction.

7. It has been observed from almost all the grants that have been issued by the officers of this Court performing functions under the Testamentary and Intestate Jurisdiction that when grants are issued

after perusing the Petitions and hearing the concerned Advocates in the uncontested matters and a direction to issue the grant is given, the same is made with a rider “after verifying whether any cross Petition or Caveat is filed”. In my view, such a rider is not necessary as the concerned officer after considering the Petition, hearing the Petitioner and also considering that the necessary formalities as per the High Court rules have been complied with, passes such an order directing issuance of grant.

8. Accordingly, henceforth, in all the orders directing issuance of grant, the concerned officers only to restrict the order to a direction to issue the grant and not subject to verification of a cross Petition or a Caveat, as that is an exercise that must be done before the direction to issue the grant is given. If the concerned officer is not confident of the same, then it is better that the grant not be issued and the matter be referred to the Court.

9. Also, the date of the grant that would be issued pursuant to the order passed directing the issuance of the grant ought to be the date of the order and not the date on which grant is issued.

10. Further, all the grants be issued no later than two weeks from the date of order directing issuance of the grant and the Registry not to

entertain any Caveats or cross Petitions after the order directing issuance of the grant, unless directed by the Court.

11. Let the aforesaid General directions expeditiously be circulated to all the concerned officers and also to the Courts taking up testamentary matters and also be published on the High Court website as well as in the notices issued by the Bar Associations attached to the Principal Bench of the Bombay High Court.

12. Let the aforesaid general directions be treated as a Practice Note under the Testamentary and Intestate Jurisdiction of this Court.

13. The Prothonotary & Senior Master of this Court to act accordingly.

14. For the specific reliefs sought for in this Interim Application, list on **18th August 2026** on the **Supplementary board**.

15. It is made clear that if the concerned Advocate for the Caveator does not remain present in Court on the next date, this Court will proceed to hear the Interim Application and pass appropriate orders.

(ABHAY AHUJA, J.)