

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
INTERIM APPLICATION (L) NO. 2918 OF 2021
IN
MISCELLANEOUS PETITION (L) NO. 2915 OF 2021**

Raja Mahendragir & Anr ...Petitioners
Versus
Shakuntaladevi Shankar Puri Nee Shakuntaladevi ...Respondent
Dhondiba Giriji

Mr Iqbal Chagla, Senior Advocate, with Bharat B Merchant, Naval Agarwal, Neerav B Merchant, Jehaan Mehta, Hubab Sayyed, & Nadeem Shgama, i/b Thakordas & Madgavkar, for the Petitioners. (through VC)
Mr SS Dicholkar, Constituted Attorney, of Respondent No. 1, is present.

CORAM: G.S. PATEL, J
DATED: 30th March 2021

PC:-

1. There is a representation by one Shankar Sitaram Dicholkar, who claims to be a Constituted Attorney of the Respondent. The document is dated 24th March 2021. It is in Marathi and addressed to the Prothonotary and Senior Master of this Court. It seeks my recusal. There is an official translation also provided. The application in question first deals with the merits, and in doing so

claims that the Petitioners do not have any relation with the deceased. That contention is yet to be addressed. Then, in paragraph 5 of the English translation, the application says:

“From the orders passed by the Honourable Justice G.S. Patel till this day as well as his way of working of not giving to the real heir enough opportunity to collect the necessary documents, I have become absolutely certain that I will never get justice from him. Hence, our aforesaid matter may kindly be transferred from his Court to some other Court as we have no faith in him.”

2. The application for recusal is rejected outright. This is nothing but forum shopping. It is a practice that has been consistently deprecated in this High Court and in the Supreme Court as well. The matter is still at large. Parties are not entitled to hop from judge to judge until they get what they perceive to be a favourable order. The Respondent cannot base such an application on the merits of the matter. These are yet to be addressed. I have only made some ad-interim orders. In doing so, I have taken the trouble to ensure that the Respondent has had adequate notice. The matter is being heard and will be heard on merits.

3. The Respondent has obtained Letters of Administration and, according to the Petitioners, has been attempting to transfer various immovable properties. There cannot be any question of the Respondent now needing time to ‘obtain documents’.

4. In any case, there is no application on merits explaining why further time is required or what further documents are required. If

such a case is made out even today, and there is substance in that case, I will of course afford the Respondent adequate opportunity to get the necessary documents. But wording an application in such generalities — without specifying what documents, from where, or why, when we are dealing with a grant of Letters of Administration and not a question of any individual property — is entirely misconceived.

5. The application is rejected.

6. The original application and its translation are retained on file and marked 'X1' and 'X2' for identification with today's date. Copies may be given to the Advocates for the Petitioners.

7. On the last occasion, Mr VR Patil appeared for the Respondent. Paragraph 1 of that order reads thus:

“1. Mr VR Patil states that he has instructions to represent the Respondent. He further states he will need to obtain a no objection from Mr Pange through whom the Respondent had filed Testamentary Petition No. 139 of 2018. I do not think that is at all necessary. The Testamentary Petition has been disposed of. The Miscellaneous Petition for revocation is independent although it does come up in the testamentary petition. In any case that is for Mr Pange and Mr Patil to work out. I expect Mr Patil's vakalatnama to be filed and an Affidavit in Reply is to be filed and served on or before 26th March 2021. The Affidavit in Reply must necessarily include the disclosures that I have previously ordered. The Respondent is already in breach of those orders for non-disclosure.”

8. Nobody has filed vakalatnama on behalf of the Respondent. No Affidavit in Reply has been served as yet. It is on this basis and in this state of record, that I will allow the Constituted Attorney Mr Dicholkar, to now address the Court.

9. Mr Dicholkar states that his instructions are to engage Mr Patil.

10. List the matter on 1st April 2021. I except Mr Patil and Mr Dicholkar both to be present in Court on that date and for Mr Patil to have a vakalatnama with him or to have already filed it. I have explained this to Mr Dicholkar myself, in Marathi. Indeed, my entire discourse with Mr Dicholkar has been in Marathi, so he can have no room for complaint on that score. I have attempted to provide near-simultaneous translations into English for Mr Chagla, who appears online.

11. There is non-compliance with previous orders. This has certain consequences. Mr Patil will no doubt advise Mr Dicholkar and the Respondent of the results of these consequences. At present, I am leaving contentions open until I have heard Mr Patil on 1st April 2021.

12. Stand over to 1st April 2021. Previous orders to continue until then.

13. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production of a digitally signed copy of this order.

(G. S. PATEL, J)