

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
TESTAMENTARY AND INTESTATE JURISDICTION  
INTERIM APPLICATION (L) NO.12617 OF 2024  
IN  
TESTAMENTARY SUIT NO.25 OF 2018  
IN  
TESTAMENTARY PETITION NO.780 OF 2013

Jang Bahadur Singh Gujral ... Applicant / Plaintiff  
Vs.  
Manmohan Kaur Oberoi and others ... Defendants

WITH  
NOTICE OF MOTION NO.10 OF 2019  
WITH  
NOTICE OF MOTION NO.13 OF 2019  
WITH  
INTERIM APPLICATION NO.565 OF 2020  
WITH  
INTERIM APPLICATION NO.566 OF 2020  
WITH  
INTERIM APPLICATION NO.569 OF 2020  
IN  
TESTAMENTARY SUIT NO.25 OF 2018

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Mr. Vasim Siddiqui a/w. Ms. Priyanka Acharya i/b. Mr. Kunal Bhanage for Applicant in IAL/12617/2024 and for Plaintiff in TS/25/2018.

Adv. Tasneem K. i/b. Probus Legal for Defendant Nos.2 and 3.

**CORAM : MANISH PITALE, J.**

**DATE : APRIL 18, 2024**

**P.C. :**

. By Interim Application (L) No.12617 of 2024, the applicant / plaintiff prays for carrying out amendment as per Schedule A to the present application.

2. The present application is necessitated on account of death of

defendant No.3 on 21.02.2023, during the pendency of the present suit. Copy of his death certificate is annexed at exhibit-A to the application.

3. There is a delay of 325 days in moving the present application seeking amendment in order to bring on record legal representatives of the defendant No.3.

4. The applicant has specifically stated that since settlement talks were going on between the parties during the pendency of the present suit and a suit for partition pending before the Delhi High Court, the present application could not be moved within the stipulated period of time.

5. This Court is satisfied that sufficient cause is made out for condoning delay. Accordingly, the application is allowed in terms of prayer clauses (a) and (b), which read as follows:-

“a. That the delay of 325 days in filing the present Interim Application be condoned;

b. That the applicant be allowed to carry out the necessary amendment as mentioned in ‘Schedule-A’ along with such other and further consequential amendments thereto;”

6. The amendment be carried out within two weeks from today. Re-verification is dispensed with.

7. The learned counsel for the plaintiff informs this Court that the first witness of the plaintiff was in the witness box and his cross-examination was being undertaken in the year 2018 / 2019. This Court has periodically passed orders directing that the cross-examination be completed and report be submitted by the court commissioner. The said directions could not be complied with because the defendants have failed to complete the process of cross-examination. It is alleged that the defendants are deliberately delaying the present proceedings in the

backdrop of his suit for partition filed before the Delhi High Court.

8. The learned counsel appearing for the defendants today submits that a short adjournment may be granted in order to take appropriate instructions in the matter.

9. This Court is of the opinion that the proceedings cannot be permitted to languish at the stage of cross-examination. The parties ought to take immediate steps to ensure that the cross-examination of the witnesses of the plaintiff is completed at the earliest. If necessary, this Court will discharge the earlier court commissioner and appoint a new court commissioner for the said purpose and further ancillary directions can also be issued.

10. In view of the above, list for further directions on 30.04.2024, to be included in the supplementary list.

**(MANISH PITALE, J.)**

*Minal Parab*