



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

TESTAMENTARY PETITION NO.127 OF 1994

Adeline Rodrigues	Administrator
Girish Nautmal Jani and Anr.	Respondents
<i>Nusserwanji Dorabji Seervai</i>	Deceased

Ms. Adeline Rodrigues, Administrator, is present.

Mr. Dharmesh S. Joshi for Noticee No.2–Girish Jani.

Ms. Akansha Patil, i/by Ms. Pushpa Thappa, for Respondent No.2.

Ms. Sonal, with Ms. Khyati Pandit, i/by Dhru & Co., for Linky Hotels & Shopping Spot Pvt. Ltd. (Purchaser).

Ms. Anita Castellino, with Ms. Li Shu Fen & Mr. Siddharth Chandrashekhar, i/by Mr. Suresh Chandrashekhar, for Mr. Darayus Bhathena of the Legatees.

CORAM : A.K. MENON, J.

DATED : 5TH MARCH, 2020.

P.C. :

1. Administrator has filed a Report No.5 dated 12th December 2019 on behalf of one of the beneficiaries listed in Annexure–B to the report. There are rival claims made by Mr. Bhathena on one hand and Mrs. Bhathena on the other hand. Beneficiary no.17 is also respondent no.2 in the petition.

2. Learned Advocate on behalf of respondent no.2 seeks time to file an affidavit-in-reply. Copy of the report has only been served today. Hence,



reply to be filed within a period of two weeks from today.

3. The Administrator seeks further time to ascertain whereabouts of the other beneficiaries. She seeks permission to disburse the amounts bequeathed to the Agiarys and the funds maintained by those Agiarys, as listed in serial nos.1, 1(a), 1(b), 1(c), 2, 3 and 4 in Annexure-B to the report. Likewise, she seeks leave to remit amounts bequeathed to Girish Jani, whose name appears at serial no.10 in Annexure-B to the report, is also permitted.

4. As far as serial no.17 is concerned, there are rival claims. According to respondent no.2, she is beneficiary. The dispute essentially arising out of the fact that the bequest is made in accordance with clause 10(p) of the Will dated 14th November 1984 being numbered as Will No.53 of 1994. Clause 10(p) reads as follows :-

“10(p). To Mrs. Bhathena my tenant at Juhu, who has very nicely looked after me : Rs.10,000/- (Rupees ten thousand only).”

5. The dispute is now between respondent no.2 and her husband. This issue will be decided separately. That leaves the other bequests in favour of the parties described at item nos.5 to 9, 11 to 16 and 18 in Annexure-B to the report. The Administrator seeks time to ascertain their whereabouts and file a supplementary report.

6. Having considering the above, I pass the following order;



- (i) Permission is granted to make remittances of amounts referred to in paragraph 3 above. Administrator shall comply with those bequests within four weeks from today.
- (ii) Supplementary report to be filed by 30th March 2020. Supplementary report shall also confirm payments of amounts, which have been permitted by this order.
- (iii) At her request leave is granted to the Administrator to renumber prayers in Report No.5. Accordingly, prayers (D), (E) and (F) shall be renumbered as (C), (D) and (E).
- (iv) Considering the particulars provided in paragraph 4 of the report and the fees, which have been fixed in view of the earlier order dated 18th October, 2019, prayers to be renumbered as (C), (D) and (E) are allowed.
- (v) In Report No.6, the respondents to file their replies, if any, on or before 19th March 2020. If no reply is filed, the matter will be heard on the next occasion. Inspection of documents if any relief upon in such replies shall be given within a period of two weeks from today and true copies of those documents shall be provided to the Administrator. Originals to be available at hand.
- (vi) List the reports on 2nd April 2020.

(A.K. MENON, J.)