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

TESTAMENTARY PETITION NO.127 OF 1994

IN

ADMINISTRATOR'S REPORT NO.5

Ms. Adeline Rodrigues

.. Plaintiff

Vs.

Girish N. Jani & Anr.

.. Respondents

Ms. Adeline Rodrigues (Administrator).

Mr. Dharmesh S. Joshi for defendant no.1.

Mr. S. J. Khera for Gul Kriplani.

Ms. Akansha Patil i/b. Ms. Pushpa Thapa for respondent no.2.

Mr. Hemant Hariyan, AGP on notice.

CORAM : A.K. MENON, J.

DATED : 17TH DECEMBER, 2019.

P.C. :

1. The learned Administrator tenders report no.5 dated 12th December, 2019 by which she seeks distribution of part of the amounts collected by her. Approximately a sum of Rs.22 lakhs is available with the Administrator in the estate account from which disbursements are proposed to be made. On behalf of one of the beneficiaries objections are raised. He seeks time to file reply to oppose the relief sought. In the circumstances, reply to be filed within four weeks from today.
2. In an earlier report dated 1st October, 2019, the Administrator has



ascertained that Axis Bank, Byculla Branch, had permitted a non-negotiable cheque to be encashed and permitted a sum of Rs.944800.50 payable to the wife of the deceased to be collected by one Shree Satkar Co-operative Credit Society Ltd.

3. On behalf of the bank she submits cheque has been fraudulently encashed and credited to a different account without any authority after the demise of the payee. She seeks leave to file a complaint in this respect and also against the banks in question viz. HDFC Bank and Axis Bank.
4. On behalf of the Axis Bank, an affidavit dated 5th December, 2019 has been filed in paragraph 16 of which the bank admits to inadvertent error that amount was so credited. The bank has further stated that they will not permit any further amounts to be withdrawn from the bank account of Shree Satkar Co-operative Credit Society Ltd. till further directions of this Court.
5. Meanwhile, the learned counsel submits that he has instructions to pay over the value of the cheque along with simple interest thereon @ 6% p.a. from 17th November, 2014 till date of payment.
6. Let this be done within one week from today as required by the Administrator to the credit of the estate account.
7. In the meantime, a sum of Rs.15 lakhs shall be put into the fixed deposit with the nationalized bank wherein the estate account has been



opened for a period of not less than one year subject to there being no premature encashment penalty.

8. List the petition on 16th January 2020.

(A.K.MENON, J.)

wadhwa