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# Procedural Loophole Shut: Justice Khata Curbs Collateral Claims, Prioritizes Estate Efficiency

AUTHOR Suresh Palav, Ritika Dedhia

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## Introduction

In a stern reminder that the courts are not a refuge for frivolous or obstructive litigation, the Bombay High Court in Auto Credit Corporation & Anr. v. Mukesh Bansilal Shah & Ors.[1] dismissed a Chamber Summons filed by the applicants seeking intervention in a long-pending testamentary dispute. Justice Kamal Khata held that the applicants, having no caveatable interest in the estate, had misused judicial proceedings to delay the administration of the deceased's property. Taking serious note of their conduct including tampering with sealed premises the Court imposed **exemplary costs of ?25,00,000,** directing that the amount be deposited with the Armed Forces Battle Casualties Welfare Fund.

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## Background of the Case

The dispute pertained to a shop premises on the ground floor of Roshni Building, situated at 27-B, Maharshi Karve Road, Charni Road, Mumbai, where the applicants Auto Credit Corporation, a business concern, and Rekha Prakash Jain, one of its partners claimed to be lawful tenants. The tenancy was alleged to have commenced under the original landlady, Mrs. Madhavi Dhirajlal Sagar, and was subsequently continued under Mr. Mahesh Mithalal Trivedi, who asserted ownership of the building after the landlady's demise.

The landlady had earlier initiated eviction proceedings before the Small Causes Court at Mumbai by filing RAE Suit Nos. 418/1069 of 1991 and 419/1070 of 1991 seeking recovery of possession of the said premises. Both suits were dismissed, and the Appeal Nos. 414 and 415 of 2008 preferred therefrom were also dismissed by the Appellate Bench on 30 November 2011. Challenging these concurrent findings, the applicants filed Civil Revision Applications Nos. 456 of 2013 and 882 of 2012, which remain pending before the High Court. However, no interim stay has been granted against the dismissal orders.

Following the demise of the original owner, the High Court appointed an Administrator to manage the estate, including the properties "Roshni" and "Varsha" Buildings. The Administrator's role was limited to collection of rent and protection of the estate assets. In 2017, the Administrator placed a seal on the disputed shop premises, citing prolonged non-payment of rent and lack of documentary proof establishing tenancy in the applicants' favour.

The applicants objected to the sealing, asserting that they had tendered rent payments and had been in continuous possession since 1991. Alleging that the Administrator exceeded his authority and that the sealing caused them business loss, they filed a Chamber Summons in Testamentary Suit No. 94 of 2011 seeking intervention in the probate proceedings and directions for removal of the seal affixed on the premises.

## Issues Before the Court

The Court was called upon to determine the following key questions:

1. Whether the applicants had any caveatable interest entitling them to intervene in a testamentary proceeding.
2. Whether the Administrator had exceeded his authority by sealing the premises.
3. Whether the applicants had established lawful tenancy rights over the disputed property.
4. Whether their conduct tampering with sealed premises and delaying proceedings amounted to an abuse of the judicial process.
5. Whether exemplary costs should be imposed to deter misuse of court procedures.

## Court's Findings and Reasoning

Justice Khata held that the Chamber Summons was wholly misconceived. The Court emphasized that tenants or occupants cannot be impleaded as parties in testamentary proceedings, as questions of tenancy fall within the exclusive jurisdiction of the Small Causes Court.

Relying on the Administrator's and Court Commissioner's reports, the Court found that the sealed premises had been unlawfully tampered with, suggesting an attempt to create third-party rights and occupy the property without authority. Such conduct, the Court observed, "cannot be countenanced."

The Court further clarified that Auto Credit Corporation, at best, was an occupant, not a tenant. An occupant has no right, title, or interest to assign or permit use of the property without due authorization. The applicants, by their repeated filings and non-compliance with earlier directions, had obstructed the administration of the deceased's estate and consumed valuable judicial time on collateral issues.

## Order Passed

**The Court issued the following directions:**

- The Chamber Summons was dismissed.
- The applicants were directed to pay ?25,00,000 as exemplary costs to the Armed Forces Battle Casualties Welfare Fund within four weeks.
- Upon failure to comply, the Collector, Mumbai, was directed to attach the applicants' properties for recovery of the amount within three months.
- The Court also issued a show-cause notice for contempt to Rekha Prakash Jain for tampering with sealed premises, returnable on 12 November 2025.

## Legal Significance

The judgment carries notable legal significance for both testamentary jurisprudence and procedural discipline.

**1. Jurisdictional Clarity in Testamentary Proceedings:** The Court reaffirmed that probate and testamentary proceedings are confined to determining the validity of a will and the administration of a deceased's estate. Issues relating to tenancy, possession, or occupancy rights fall exclusively within the jurisdiction of the Small Causes Court. This reinforces the long-standing principle that probate courts are not forums for adjudicating property or tenancy disputes.

**2. Upholding Integrity of Estate Administration:** By censuring the applicants' interference with sealed premises and attempts to delay proceedings, the Court highlights that the administration of a deceased's estate must proceed efficiently and without obstruction. Any act that disrupts the judicial management of estate property amounts to an affront to the authority of the court.

**3. Deterrence Against Frivolous Litigation:** Invoking the Supreme Court's decision in Dnyandeo Sabaji Naik v. Pradnya Prakash Khadekar[2], the High Court emphasized that exemplary costs are not merely punitive but corrective, a judicial tool to discourage litigants from abusing process or engaging in vexatious proceedings.

**4. Accountability of Court-Appointed Officers:** The ruling also delineates the powers and responsibilities of court-appointed administrators, affirming that their actions must be guided strictly by court orders. However, where the administrator acts within the scope of authority to safeguard estate assets, the court will extend protection and support to such administrative measures.

In sum, the decision strengthens the twin principles of jurisdictional propriety and procedural discipline, ensuring that the machinery of justice is not derailed by spurious claims or dilatory tactics.

## Author's View

The judgment is a clear warning to litigants who attempt to exploit procedural loopholes to delay testamentary proceedings. Justice Khata's firm stance reflects a growing judicial trend toward efficiency, accountability, and deterrence against vexatious litigation. The decision upholds the sanctity of probate jurisdiction and channels the penalty towards a noble cause the welfare of India's armed forces, Armed Forces Battle Casualties Welfare Fund exemplifies how the Court can align legal sanctions with a meaningful public purpose. It marks a commendable example of judicial discipline aligned with public purpose.This judgment reinforces the principle that probate jurisdiction is for the orderly administration of estates, not for the assertion of collateral

tenancy claims.

**For more details, write to us at: contact@indialaw.in**

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[1] CHAMBER SUMMONS NO.159 OF 2018 IN TESTAMENTARY SUIT NO.94 OF 2011

[2] (2017) 5 SCC 496

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