

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION (L) NO. 1207 OF 2015
IN
TESTAMENTARY PETITION NO. 176 OF 2015**

Rekha Ajay Thakker	...Petitioner
<i>Versus</i>	
Kiran Bhagwandas Thakkar	...Respondent

Mr. P. Patil, *for the Petitioner.*
Mr. R.A. Thorat, Senior Advocate, *i/b Ms. A. Malhotra*, *for the Respondent.*

CORAM: G.S. PATEL, J
DATED: 19th October 2015

PC:-

1. The Petitioner in this revocation Petition claims to have been the wife of the deceased. She admits that her marriage was not registered. She seeks revocation of a probate on the basis of her claim that she is the legally wedded wife.

2. In the Affidavit in Reply, Mr. Thorat has produced some documents obtained under the Right to Information Act. These document raise very serious question about the correctness of the

Petitioner's claim to having been the deceased's legally wedded wife. The Petitioner's situation is not assisted by the statement that she now makes in Affidavit in Rejoinder. The documents produced by the Respondent *prima facie* seem to show that certain false or bogus certificates favouring the Petitioner were got prepared. The Petitioner says that she had no hand in this, and that these were obtained or got done by her deceased husband; an assertion that is, to put it mildly, decidedly odd.

3. Given the standing of the parties and their relative social status, I am still willing to offer the Petitioner a final opportunity to put her case clearly. I do so only to ensure that the Petitioner is afforded the fullest opportunity of presenting her case. At the same time, I am not prepared, only on the basis of the bland and unconvincing denials in the Rejoinder, to allow the Miscellaneous Petition. Thus, despite Mr. Thorat's submission that the Petition must be dismissed at the threshold, I am willing to let the Petitioner file an Affidavit of Evidence on the limited question of being able to prove her marriage to the deceased. That Affidavit in lieu of examination in chief is to be filed and served on or before 30th November 2015 along with a compilation of documents, if any.

4. List the matter on 4th December 2015. If there are any documents, they will be taken up for marking on that date followed immediately by the cross-examination of the Petitioner from 4.00 p.m. onwards. If there are no documents, the cross-examination of the Petitioner will begin forthwith.

(G. S. PATEL, J.)