

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO.87 OF 2017
IN
TESTAMENTARY PETITION NO.945 OF 1999

Homi Phirozshaw Daruwalla Zoroastrian Parsee ... Petitioner

Ms Bina S. Shivhare for Petitioner.

CORAM : R. G. KETKAR, J.
DATE : AUGUST 10, 2017

P.C. :

Heard Ms Shivhare, learned Counsel for petitioner.

2. This Petition is instituted under Section 301 of the Indian Succession Act, 1925 for discharging the petitioner as executor without passing any account.

3. In support of this Petition, Ms Shivhare submitted that probate was granted on 18.09.2001 to all the co-executors namely, (i) petitioner herein, (ii) Silloo Kaikhushru Kavarana, (iii) Coomi Cawasji Engineer and (iv) Soli Cawasji Engineer. She submitted that Silloo Kavarana died on 17.10.2005. Coomi Cawasji Engineer died on 11.02.2017. Petitioner Homi Phirozshaw Daruwala is aged about 88 years and is not keeping good health. Due to his health problems, he is advised by his doctor to take rest. Petitioner is unable to administer the remaining assets of the deceased Feroz Rustamji Kavarana, more particularly shown in Schedule I annexed to the Petition for Probate. She further submitted that the remaining executor Soli Cawasji Engineer has made affidavit dated 20.06.2017 giving free and full consent for discharge of the petitioner as executor. He also waived service of notice of the present

proceedings upon him. She therefore, prayed that petitioner may be discharged as executor without passing any account.

4. In view of these submissions as also for the reasons stated in the Petitions as also the affidavit dated 20.06.2017 made by Soli Cawasji Engineer, Petition is allowed in terms of prayer clause (a) with no order as to costs. Order accordingly.

(R. G. KETKAR, J.)

Minal Parab