

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

**MISCELLANEOUS PETITION NO. 31 OF 2017
IN
TESTAMENTARY PETITION NO. 1227 OF 2011**

Sunder Kukreja & Ors.

.. Petitioners

Vs.

Raj Kumar Kukreja & Ors.

.. Respondents

Mr.Navin Chawla a/w. Ms. Sanya Kapoor i/b Rajendra E. Pawar for petitioners.

Mr.Mohd. Tahir Prande i/b Juris Consillis for respondent no.1.

Mr.Vijay Shreeram Bhadkamkar for respondent no.2.

Ms.Kranti Sarjerao Sarwade for respondent no.8.

CORAM : K.R.SHRIRAM, J.

DATE : 12TH APRIL, 2017

P.C.

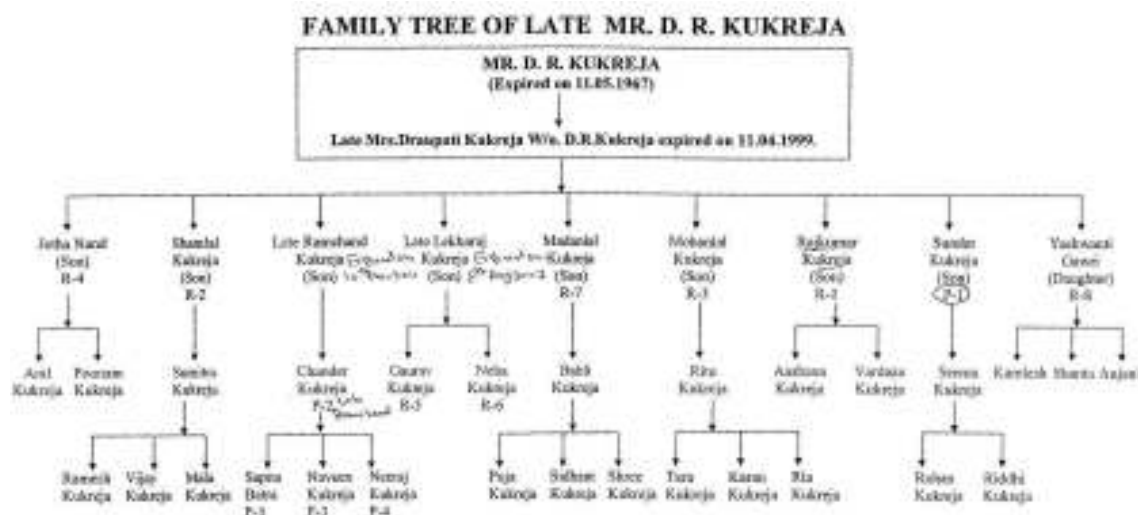
1 Admit.

The petition is made returnable forthwith and heard finally.

2 This petition is filed for revoking a probate granted by this Court with respect to a Will dated 10th June 1996 of one Mrs.Draupati Kukreja (deceased) wife of late Shri D.R. Kukreja who was residing at Delhi at the time of her death. The short point in the petition is that respondent no.1 who had applied for grant of Probate by filing Petition No.1227 of 2011 (the

Probate Petition) propounding a Writing dated 10th June 1996, as the last Will and Testament of the deceased, had made a false statement in paragraph 9 of the Probate Petition stating that he was the only legal heir of the deceased whereas the petitioners and respondent nos.2 to 8 are also the legal heirs of the deceased.

3 Family Tree of the deceased is as under :



4 Despite this factual position, the Probate Petition was filed without mentioning anything about the other legal heirs. Paragraph 9 of the Probate Petition reads as under :

9 That the said deceased widow left her surviving as as her only heirs and next of kins according to Hindu Succession Act, 1956, the following persons who are residing at the addresses set out against their respective names :-

Sr. Nos.	Full Name and address of the next of kins	Age	Relationship with deceased
1)	Rajkumar Kukreja S/o. Late SH. D.R. KUKREJA, 23, Firoz Gandhi Road, Lajpat Nagar III, New Delhi.	54 years	Son

The Husband, parents, mother in law and father in law of the deceased predeceased the deceased. The deceased left no daughters. Save and except as mentioned above the deceased left no other legal heirs.”

5 In paragraph 15 of the present petition, the petitioners have alleged that respondent no.1, who was the petitioner in the Probate Petition, had made a false statement on oath that he is the only surviving legal heir of the deceased and that the deceased did not leave behind any daughter and respondent no.1 should have disclosed that the deceased had left behind other sons and daughter.

In response to paragraph 15, respondent no.1 in Para 10(xvi) of Paragraph 10 of the affidavit in reply states as under :

“(xvi) With reference to para 15 of the said Petition, the contents therein are denied. It is denied that the Respondent No.1 has, in any manner, attempted to deprive the Petitioners of their legal right. The Probate Petition is a matter of record and the Respondent No.1 craves leave to refer to and rely upon the Probate Petition as and when produced.”

6 There is no explanation whatsoever, as to why respondent no.1 made this false statement in paragraph 9 of the Probate Petition “..... The deceased left no daughters. Save and except as

mentioned above the deceased left no other legal heirs.”.

It is quite obvious that respondent no.1 had played a fraud on the Court and had obtained the probate. By playing such fraud on the Court, respondent no.1 has also interfered in the cause of justice and in the administration of justice. The conduct of respondent no.1 smacks of utter dishonesty not only towards his siblings and their legal heirs but upon the Court as well. In my view, this is a fit case to grant the relief sought.

7 Accordingly, the petition is allowed in terms of prayer clause (a) with costs.

The probate granted on 27th July 2012 is recalled.

Testamentary Petition No.1227 of 2011 is restored to file.

The petitioners herein and respondent nos.2 to 8, should they wish, may file caveat and affidavit in support of the caveat within four weeks from today.

8 Respondent no.1 to pay the belowmentioned amounts as costs :

	Name		Amount of cost to be paid
1	Mr.Sunder Kukreja-petitioner no.1	:	Rs.30,000/-
2	Mrs.Chander Kukreja-Petitioner No.2 wife of Late Ramchand Kukreja (Son)		Rs.10,000/-
3	Mr.Navin Kukreja-Petitioner No.3		Rs.10,000/-

4	Mr.Neeraj Kukreja-Petitioner No.4		Rs.10,000/-
5	Mrs.Sapna Batra-Petitioner No.5		Rs.10,000/-
6	Mr.Shamlal Kukreja-respondent no.2	:	Rs.30,000/-
7	Mr.Mohanlal Kukreja-respondent no.3	:	Rs.30,000/-
8	Mr.Jetha Nand-respondent no.4	:	Rs.30,000/-
9	Mr.Gaurav Kukreja-respondent no.5	:	Rs.15,000/-
10	Ms.Neha Kukreja-respondent no.6	:	Rs.15,000/-
11	Mr.Madanlal Kukreja-respondent no.7	:	Rs.30,000/-
12	Mrs.Yashwanti Gawri-respondent no.8	:	Rs.30,000/-
13	Maharashtra Legal Aid Services Authority	:	Rs.1,00,000/-
Total			Rs.3,50,000/-

The costs to be paid within four weeks from today.

9 It is made clear that if the costs as mentioned above is not paid and the compliance evidence submitted to the Prothonotary and Senior Master, High Court, Bombay, Testamentary Petition No.1227 of 2011 will stand dismissed without further reference to the Court.

10 Show cause notice returnable on 16th June 2017 also be issued to respondent no.1 as to why this Court should not hold him guilty of perjury.

(K.R. SHRIRAM, J.)