

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO. 177 OF 2017**

IN

CAVEAT (L) NO. 396 OF 2017

IN

TESTAMENTARY PETITION NO. 51 OF 2017

Domnic Augustine Jacinto

...Petitioner

Versus

Joanna Philip Jacinto & Ors

...Caveators

Mr Khushnood Akhliar, i/b Rajiv Jadhav, for the Petitioner.

Mr Reyden L Gonsalves, i/b Eventa A Gonsalves, for the Caveators.

CORAM: G.S. PATEL, J

DATED: 31st July 2018

PC:-

1. For the reasons set out in the Affidavit in Support, the Chamber Summons is made absolute in terms of prayer clauses (a) and (b).
2. The Chamber Summons is disposed of in these terms. No costs.
3. Office to renumber the Petition as Suit.

4. In order to save time and on the joint request of the parties, the Petition is taken up forthwith for framing issues.
5. Issues are framed and these are appended to this order.
6. The Plaintiff shall, on or before 30th August 2018 file (i) the affidavit(s) of the attesting witness(es) (ii) the evidence affidavit of the Plaintiff; (iii) an affidavit of documents; and (iv) a compilation of documents duly indexed and paginated. Copies of each of these will be served on the advocates for the Defendants on or before that date.
7. Discovery and inspection is to be completed and statements of admission and denial are to be exchanged on or before 14th September 2018.
8. There will be no extension of time. In default of compliance, the suit and petition will stand dismissed without further reference to the Court.
9. On the Plaintiff complying with these directions, the matter will be taken up for marking of the Plaintiff's documents and further directions on 18th September 2018 irrespective of the caption under which the matter appears.

(G. S. PATEL, J.)

ISSUES FRAMED ON 31ST JULY 2018
IN
TESTAMENTARY PETITION NO. 51 OF 2017

1. Whether the Plaintiff proves that the writing dated 11th October 1983 and the writing dated 20th January 1984 were each duly and validly executed and attested in accordance with law as the last Will and Testament of the deceased, Augustine L Jacinto and the Codicil thereto?
2. Whether the Plaintiff proves that at the time of the said alleged Will, the deceased was of sound and disposing state of mind, memory and understanding?
3. Whether the Plaintiff proves that at the time of the said alleged Codicil, the deceased was of sound and disposing state of mind, memory and understanding?
4. Whether the Defendants prove that the alleged Will or the Codicil or both were obtained by undue influence, fraud or coercion?
6. Whether the Defendants prove that the alleged Will or Codicil or both were forged?
7. Whether the Defendants prove that the alleged Will or Codicil or both are fabricated?
8. What relief and what order?

(G. S. PATEL, J)