

K.S. Jadhav.

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

INTERIM APPLICATION NO.3825 OF 2022

IN

TESTAMENTARY PETITION NO.33 OF 2022

Savina Rachele Calderari

...Applicant/
Org. Petitioner

Versus

Chandra Visvanathan alias
Chandra Vishwanathan alias
Chandra Visvanaathan alias
C. Visvanathan alias
Chandra Vishwanath

...Deceased

Mr. S.U. Lakdawala a/w Mr. Vijay Badgujar i/b I.R Joshi & Co.,
Advocates for Applicant/Petitioner.

CORAM : R.I. CHAGLA, J.

DATE : 10th November, 2022.

ORDER :

1. Heard the learned Advocate appearing for the Applicant.
2. By this Interim Application, the Applicant is seeking renouncement of right of Mr. M.V. Venkitachalam, one of the

Executors who was appointed under Will of the deceased Chandra Visvanathan dated 20th July, 2008.

3. The Applicant has stated that there were three Executors who have been appointed under the said Will dated 20th July, 2008. Two of the Executors namely Mr. C.G. Ramamurthi and Mr. S. Raghu have renounced their executorship by writing dated 7th March, 2020 and 6th May, 2022 respectively. The Writing/Declaration marked at Exhibit-B & C are annexed to the Interim Application.

4. In Paragraph 3 of the Interim Application it is stated that Mr. M.V. Venkitachalam who has been appointed as an Executor is not traceable at the address mentioned in the said Will. Reliance is placed on Affidavit of Service which is at Exhibit-D to the Interim Application wherein attempt to serve Mr. M.V. Venkitachalam had been proved unsuccessful as the postal remark showed “no such person”. The Applicant had tried to contact him on his mobile number reflected in the said Will to

inform him about his appointment as an Executor under the said Will of the deceased wherein it was informed that the “number is not in use” and “number is not in existence”. The status has not changed.

5. The Applicant has accordingly stated that the said Mr. M.V. Venkitachalam, one of the Executors be declared as having renounced his executorship and the applicant undertakes to inform this Court as and when Mr. M.V. Venkitachalam becomes aware of his being appointed as executor.

6. I have considered the averments in the Interim Application as well as noted that two of the Executors have already filed their declaration in writing that they have renounced their executorship which are at Exhibit-B & C to the Interim Application. Further, in view of the fact that the efforts made by the Applicant to serve notice upon Mr. M.V. Venkitachalam of his appointment as an Executor under said Will have been unsuccessful as borne out by the Affidavit of Service at Exhibit-B of the Interim Application, the relief sought for in the Interim

Application is required to be granted.

7. The Applicant has undertaken that in the event Mr. M.V. Venkitachalam is made aware of his executorship by the Applicant, this Court will be informed of the same. The undertaking is accepted as an undertaking to this Court.

8. Accordingly, the following order is passed:

- i) The right of Mr. M.V. Venkitachalam as one of the Executors in the said Will of the deceased Chandra Visvanathan dated 20th July, 2008, is renounced.
- ii) The office is directed to proceed in the matter expeditiously for grant of letter of Administration with Will annexed as having been applied by the Applicant.
- iii) The Interim Application is accordingly disposed of.

[R.I. CHAGLA, J.]