

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

TESTAMENTARY PETITION NO. 70 OF 2006
WITH
TESTAMENTARY PETITION (L) NO. 2203 OF 2022
WITH
INTERIM APPLICATION (L) NO. 17384 OF 2021
IN
TESTAMENTARY PETITION NO. 70 OF 2006

Dara Jamshedji Fitter ...Deceased

Nariman Hormusji Daruwalla & Ors. ...Petitioners

Adv. Sayeed Mulani a/w. Adv. Shobhana Waghmare i/b. Mulani & Co. for the
Petitioners.

CORAM : ARIF S. DOCTOR, J.

DATE : 3rd FEBRUARY, 2023

P.C. :

1. Learned Counsel appearing on behalf of the Petitioners seeks leave to withdraw the present Testamentary Petition with liberty to file afresh Testamentary Petition. He submits that the reason for doing so, is that the papers and proceedings in the present Testamentary Petition No. 70 of 2006 are not traceable in the office of the Testamentary Department .
2. He submits that the last case status in the matter records "For Rejection". He submits that on taking follow up with the department the learned Counsel

for the petitioners were informed that since the papers were not traceable, thus, the matter is not being proceed with.

3. In view thereof, learned Counsel for the Petitioner seeks leave of this Court to withdraw the present Testamentary Petition No. 70 of 2006 and requests for adjustment of Court fee paid in the present Testamentary Petition to be adjusted as Court fee in the Testamentary Petition (L) No. 2203 of 2022.

4. In view of this and on perusal of a copy of the order passed by the Testamentary Registrar dated 30th January, 2023, the Advocate for the Petitioners is granted to withdraw the present Petition with liberty as prayed for.

5. Office to adjust the Court fee paid in respect of Testamentary Petition No. 70 of 2006 against the Court fee payable in respect of Testamentary Petition (L) No. 2203 of 2022.

6. Learned Counsel for Petitioner requests that the Will that had been deposited in the Testamentary Department in the Testamentary Petition No. 70 of 2006 be treated and consider as the Will in the Testamentary Petition (L) No. 2203 of 2022.

7. In view of disposal of the Testamentary Petition No. 70 of 2006, pending Interim Application (L) No. 17384 of 2021 is also stands disposed off.

(ARIF S. DOCTOR, J)