

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

INTERIM APPLICATION NO. 5374 OF 2022
IN
TESTAMENTARY PETITION NO. 2841 OF 2021

Sanjay Kapildev Gupta

...Intervenor

IN THE MATTER BETWEEN :

Sanjay Bachalal Singh

...Petitioner

Versus

Sulochana Shyamlal Yadav

...Deceased

- Mr. Rahul Arora i/b Jeet Gandhi, for Intervenor.
- Mr. Jeetendra Ranawat a/w W. Ahmed i/b Sushil Shinde, for Petitioner.

CORAM : MANISH PITALE, J.

DATE : 03rd NOVEMBER, 2023.

P. C. :

1. The present application is filed for intervention by the Applicant, claiming to be beneficiary under a notarized Will dated 30th December, 2013. The Applicant claims that he has a right to intervene in the probate petition.

2. The probate petition is filed by the Petitioner therein seeking probate of a registered Will dated 29th May, 2017.

3. In the said probate petition, the Petitioner has filed an affidavit of service showing service upon two brothers-in-law of the deceased specifically mentioned in paragraph no. 5 of the probate

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petition.

4. The present proceedings were circulated at the behest of the Petitioner on the ground that the processing and passing of appropriate orders in the probate petition is hampered due to pendency of the aforesaid intervention application.

5. This Court finds that such an intervention application in the probate petition is not maintainable, simply for the reason that the Applicant relies upon the purported notarized Will dated 30th December, 2013, of the deceased, under which he is the beneficiary. Admittedly, the Applicant is not and does not claim to be an heir of the deceased.

6. In such a situation, the Applicant may exhaust such remedies as available in law in respect of the said Will that he is propounding. Intervention in the probate petition cannot be permitted in the facts and circumstances of the present case.

7. In view of the above, Interim Application No. 5374 of 2022, is dismissed.

8. Needless to say, the Applicant therein may pursue such proceedings as available in law, in respect of the Will that the Applicant is propounding.

9. The department shall proceed with the probate petition expeditiously in accordance with law.

(MANISH PITALE, J.)