

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
INTERIM APPLICATION NO. 733 OF 2023
IN
TESTAMENTARY PETITION NO. 2590 OF 2021**

Girish Gajanan Haldipur ... Applicant/Petitioner

Suresh Maruti Rao Hemad
@ Suresh Maruti Rao Hemmad
@ Suresh Maruti Rao Hemmady ... Deceased

Mr. Sikander Tahsildar, i/b. Naresh Pai for applicant/petitioner.

**CORAM : MANISH PITALE, J.
DATE : 29th SEPTEMBER, 2023**

P.C. :

. In these proceedings, on an earlier occasion, this Court had passed an order on 27.07.2023, permitting affidavit of one Dr. Jayprakash Hebbar to be taken on record in compliance with Rule 384 of Bombay High Court (Original Side) Rules, 1980, as both the attesting witnesses were not coming forward, despite service. It appears that the said affidavit has been rejected by the testamentary department due to inadequate details.

2. In that light, the petitioner has filed affidavit of one Advocate Balwant Patil in compliance with Rule 384 of the aforesaid Rules. By this application, the applicant/petitioner is seeking direction to accept the affidavits of Advocate Balwant Patil and Dr. Jayprakash Hebbar as being in compliance with Rule 384 of the aforesaid Rules.

3. This Court is of the opinion that if the affidavit of Advocate Balwant Patil is accepted, that itself should suffice and this Court would not have to

go into the question as to why the testamentary department has not accepted the affidavit of Dr. Jayprakash Hebbar.

4. This Court has perused the affidavit of Advocate Balwant Patil. It is found that the said affidavit is in sufficient compliance of Rule 384 of the aforesaid Rules and hence, the testamentary department shall proceed by accepting the affidavit of Advocate Balwant Patil.

5. Accordingly, the application is partly allowed and it is directed that the testamentary department shall accept the affidavit of Advocate Balwant Patil, as being in compliance with Rule 384 of the aforesaid Rules and to take further action in the matter.

6. The application stands disposed of.

(MANISH PITALE, J.)

Priya Kambli