

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9138 OF 2024

Saumya Chetan Dogra

.. Petitioner

Versus

Renu Dogra and Anr.

.. Respondents

-
- Mr. Subhash Jha a/w. Ms. Komal Thakur i./by Law Global, Advocates for Petitioner.
-

CORAM : MILIND N. JADHAV, J.

DATE : JULY 10, 2024

P.C.:

1. Heard Mr. Jha, learned Advocate for Petitioner.
2. By virtue of the impugned order dated 10.04.2024 passed by learned Trial Court in Miscellaneous Application No.977 of 2023 has held that Applicant who has made an Application for seeking Letters of Administration in respect of the property of the deceased has failed to prove the Will.
3. The same order incidentally records that Applicant has examined herself by way of Claim Affidavit filed below Exhibit-20 as AW-1. It further records that Executor of the Will has also filed Affidavit below Exhibit-22 and thereafter Applicant has filed the evidence closing *pursis* below Exhibit-23.
4. The question before the Court is how does the Applicant examine herself and does not prove the Will when on perusal of the

Affidavit-in-lieu of examination-in-chief which is at Exhibit-L, page No.48 to the Petition in paragraph Nos.1 and 2 it is seen that Application has been made for probate before the Trial Court in view of the Will executed by deceased.

5. In that view of the matter, I am inclined to accept the submissions made by Mr. Jha that the recording by the learned Trial Court that Applicant has failed to prove the Will in paragraph No.6 is *prima facie* cryptic.

6. Mr. Jha would inform the Court that Applicant has serious difficulty in getting the papers and filing the present Writ Petition. In that view of the matter, Registry is directed to call for the record and proceedings of Miscellaneous Application No.536 of 2015 alongwith Civil Miscellaneous Application No.1103 of 2019 from the Trial Court i.e. form the Civil Judge Senior Division, Thane and / or Court of Civil Judge Senior Division, Belapur, District – Thane who are seized with the hearing of the aforesaid proceedings and place the same before this Court for this Court to ascertain whether the Will of the deceased Rajindernath Dogra as noted has been proved by the Applicant before the Trial Court as delineated in paragraph No.5 of the impugned order.

7. The papers shall be procured and placed before this Court on the next adjourned date. Registry to act on server copy of this order. In view of the above, issue notice to the Respondents. Humdast

permitted. In addition to Court's notice, Petitioner is directed to serve the Respondents a copy of this order and copy of the Writ Petition and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof. Respondents are directed to file Affidavit-in-Reply to the Writ Petition on or before the next date

8. Stand over to **25th July, 2024.**

H. H. SAWANT

[MILIND N. JADHAV, J.]

HARSHADA
HANUMANT
SAWANT

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by HARSHADA
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SAWANT
Date: 2024.07.10
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