

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

**TESTAMENTARY SUIT NO. 86 OF 2021
WITH
INTERIM APPLICATION (L) NO. 17663 OF 2022
IN
TESTAMENTARY SUIT NO. 86 OF 2021**

Ravi Katari ... Plaintiff
Versus
Kavita Mukerjee alias Kavita Mukhi ... Defendant

**WITH
TESTAMENTARY PETITION NO. 844 OF 2023
WITH
WILL NO. 329 OF 2023
IN
TESTAMENTARY PETITIONER NO. 844 OF 2023**

Mr. Rohan Cama a/w Shashnat Rai and Mrinali Dave i/by
Keystone Partners for Plaintiff/Applicant.
Mr. Girish Kedia for the Defendant.

**CORAM: MANISH PITALE, J.
DATE : 22nd MARCH 2024**

P.C. :

. In this suit, the learned counsel appearing for the plaintiff has tendered an affidavit dated 12th September 2023. The same is taken on record. The attention of this Court is invited specifically to paragraphs 4 and 5 of the additional affidavit. The said paragraphs of the additional affidavit, read as follows :

“4. On 20th July 2023, I received an email from Ms. Aparna

Mukerjee inter alia stating that:-

- a. a Probate Petition had been filed by Mrs. Indira Kilachand and Mrs. Anita Advani in this Hon'ble Court on the basis of the alleged authority under the said codicil;*
- b. after discussing with her sisters and considering that the Deceased's state was in limbo for a considerable period of time as also the fact that Mrs. Kilachand and Mrs. Advani have been friends of the Deceased for many years, they trusted Mrs. Kilachand and Mrs. Advani to carry out the last wishes of the Deceased and to distribute his assets as per the said Will;*
- c. in order to expedite the matter, she and her sisters were desirous to consent to Mrs. Kilachand and Mrs. Advani acting as the executors of the said Will; and*
- d. Aparna and her sisters' aforementioned consent would be without prejudice to their contention that the Deceased was not of sound mind at the time of the execution of the said codicil.*

A copy of the said email dated 20th July 2023 is annexed hereto as Exhibit-“A”.

5. Given that the remaining heirs of the Deceased (apart from Mrs. Kavita Mukerjee) are also inclined to grant their consent to Mrs. Kilachand and Mrs. Advani to act as the executors of the said Will albeit without prejudice to their contention that the Deceased was not of sound mind at the time of the execution of the said codicil, I am filing the present Affidavit to renounce my executorship. This is being done by me in the interest of all the parties and with a view to expedite matters. The same is without prejudice to my contention that the Deceased was not of sound mind at the time of the execution of the said codicil.”

2. In the light of the submissions made in the above quoted paragraphs, on instructions of the plaintiff, the learned counsel for

the plaintiff states that the plaintiff is renouncing his executorship in the context of the said Will and in that context, he does not wish to press the suit, as nothing remains upon the renouncing of executorship.

3. In view of the above, the suit is disposed of as withdrawn.
4. It is recorded that the caveatrix/defendant disputes the contents of paragraph No.5 quoted herein above.
5. Court fees shall be refunded as per Rules.
6. List the Testamentary Petition No. 844 of 2023 on 15th April 2024 (High on Board).

MANISH PITALE, J.