

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO. 541 OF 2024
WITH
WILL NO. 245 OF 2024
IN
TESTAMENTARY PETITION NO. 541 OF 2024**

Pankaj Anopram Bhatt ... Petitioner

Anopram Mavji Bhatt ... Deceased

Mr. Laxman Jain for petitioner.

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

P.C. :

. The present petition has been circulated on behalf of the petitioner in the light of the objection raised by the Testamentary Department as to how the present petition is maintainable, when no executor has been appointed under the subject Will.

2. The learned counsel appearing for the petitioner has contested the said stand taken by the department and he seeks dispensation of the objection by referring to the subject Will.

3. The learned counsel for the petitioner invited attention of this Court to the relevant portion of the subject Will dated 15.03.2004. He read out the relevant portion in the original Will in Gujarati language and also the official translation thereof, placed on record of the present petition.

4. The sentence in the Will upon which the learned counsel for the petitioner relies and claims that the petitioner has been appointed as the executor, is as follows:

“In case of any difficulty, the decision of Pankajbhai shall be final.”

5. The deceased testator in the present case, is the father of the petitioner and the beneficiary under the Will is the grandson of the deceased i.e. the son of the present petitioner.

6. This Court has considered the contents of the subject Will dated 15.03.2004 and in the light of the recent order in the case of Dimple Rakesh Doshi (order dated 08.02.2024 passed in Testamentary Petition No.2808 of 2023), this Court finds that the above-quoted sentence in the subject Will cannot foist the status of an executor on the petitioner. Therefore, the objection raised by the department is sustainable.

7. In view of the above, the petitioner is granted liberty to take such steps as available in law to pursue remedies in respect of the subject Will dated 15.03.2024.

(MANISH PITALE, J.)

Priya Kambli