

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO. 1119 OF 2024
WITH
WILL NO. 386 OF 2024
IN
TESTAMENTARY PETITION NO. 1119 OF 2024**

Nandkumar Harshan Kollara ... Petitioner

Suma Harshan Kollara @ Suma H. Kollaras ... Deceased

Mr. Asadullah Shaikh, i/b. S. U. Lakdawala for petitioner.

Mr. Karl Tamboly, *Amicus Curiae*.

CORAM : MANISH PITALE, J.

DATE : 02nd MAY, 2024

P.C. :

1. Mr. Tamboly, learned counsel was requested by order dated 25.04.2024, to assist this Court as an *amicus* to examine the question as to whether the petitioner is exempted from payment of court fees in the subsequently filed testamentary petition.

2. On 29.04.2024, the learned *amicus* submitted a brief note and after analysing Section 23 of the Maharashtra Court Fees Act, 1959, apprised this Court that in the facts of the present case, the petitioner in the subsequent testamentary petition is not entitled to claim exemption from payment of court fees.

3. On the said date of hearing, this Court also perused the subject Will concerning the present petition and during the course of considering the said document, the learned counsel for the petitioner therein orally indicated that

he may keep draft amendments ready, proposing to amend the said petition, so that the testamentary petition filed subsequently, could be withdrawn, although this was not specifically recorded when the proceeding was adjourned on 29.04.2024.

4. But, today when the petition is taken up for consideration, Mr. Asadullah Shaikh, learned counsel appearing for the petitioners in both the petitions submits that there are certain judgments of this Court on the basis of which the petitioner in the subsequent petition can indeed claim exemption from payment of court fees.

5. The learned counsel appearing for the petitioner is directed to give copies of judgments upon which he is placing reliance today, to the learned *amicus*, who shall peruse the same and apprise this Court about the position of law in that regard.

6. List on 06.05.2024, High on Board.

(MANISH PITALE, J.)

Priya Kambli