



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO.3239 OF 2024
WITH
WILL NO.1322 OF 2024**

Dilip Himatlal Kariya and Anr. ... Petitioners

Hemkuvar Vallamji Kariya ... Deceased

Mr. Aijar Sayyed with Ms. Sonal Mishal Rozy, for Petitioner.

CORAM: N.J.JAMADAR, J.

DATE : 29 NOVEMBER 2024

P.C.

1. Heard the learned Counsel for the Petitioner.
2. The Petition is moved before the Court seeking permission of the Court to prove the Will by filing an affidavit of witness who had witnessed the execution of the Will under Rule 384 of the Bombay High Court (Original Side) Rules, 1860.
3. The Will (Exhibit A) was purportedly witnessed by two attesting witnesses, namely, Jayantilal Mohanlal Vanjara and Upendra Laxmidas Kanani. The Petitioners assert, both the attesting witnesses have passed away. Copies of the death certificates of Jayantilal Mohanlal Vanjara and Upendra Laxmidas Kanani are annexed to the affidavit of Mr. Dilip Himatlal Kariya, the grand son of the deceased, who claims to have witnessed the execution of the Will.

4. I have perused the averments in the affidavit of Mr. Dilip Himatlal Kariya. The witness has categorically stated that in his presence, the deceased had executed the Will. Both the attesting witnesses were present. At the request of the deceased, both the attesting witnesses had attested the execution of the Will.
5. I am satisfied that the requirements of Rule 384 of the Bombay High Court (Original Side) Rules, 1860, have been satisfied.
6. Affidavit of witness Dilip Himatlal Kariya is accepted.
7. Department to proceed with the Petition.

(N.J.JAMADAR, J.)