

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

**TESTAMENTARY SUIT NO. 36 OF 2024
IN
TESTAMENTARY PETITION NO. 2305 OF 2023**

1. Kashmira Darayus Panthaki ...Petitioners/
2. Mehernosh Homi Kasad Plaintiffs
Versus
Anahita Homi Kaka ...Caveator/
Defendant

Mani Byram Kavarana alias Mani B.
Kavarana ...Deceased

WITH
TESTAMENTARY PETITION NO. 3267 OF 2023
Homi Farrok Kaka ...Petitioner/
Plaintiff

Mani Byram Kavarana alias Mani B.
Kavarana ...Deceased

**WITH
CAVEAT NO. 45 OF 2024**

Mr. K. R. Davierval, a/w Yazdi Jijina, i/b Mulla and Mulla
and Craigie Blunt and Caroe, for the Plaintiffs in
TS/36/2024 and for the Petitioner in TP/2305/2023.
Ms. Sangita Salvi, for the Caveator in TP/2305/2023 and for
the Petitioner in TP/3267/2023.
Kashmira Panthaki, for the Petitioner No.1 in TP/2305/
2023 present.
Mehernosh Kasad, Petitioner No.2 present in TP/2305/2023.
Anahita Kaka, Caveator in TP/2305/2023 present.
Homi Kaka, the Petitioner in TP/3267/2023.

CORAM: N. J. JAMADAR, J.
DATED: 6th SEPTEMBER, 2024

PC:-

1. Heard the learned Counsel for the parties.

2. The learned Counsel for the parties make a joint statement that the parties have amicably resolved the dispute and executed the Consent Terms. The learned Counsel for the parties seek leave to tender the Consent Terms.

Leave granted.

3. TP/2305/2023 is filed by Kashmira Panthaki and Mehernosh Kasad, the executors of Probate of the last Will and Testament dated 2nd November, 2020 of Mani Byram Kavarana alias Mani B. Kavarana (the deceased). In the said petition Anahita Kaka, who is shown as an heir at Serial No.1B in the table at paragraph 9 of the said petition, as the niece of the deceased, has filed a Caveat being Caveat No.45 of 2024.

4. TP/3267/2023 is filed by Homi Kaka, as an Executor of the Will of Mani Byram Kavarana alias Mani B. Kavarana dated 2nd July, 2018.

5. Evidently, two different Wills are propounded as the last Will and Testament of the deceased. It seems the petitioners in both the petitions and Anahita Homi Kaka, the Caveator in TP/2305/2023, have amicably resolved the dispute and Consent Terms have been filed.

6. Kashmira Darayus Panthaki and Mehernosh Homi Kasad, the petitioners in TP/2305/2023, and Homi Farrok Kaka, the petitioner in TP/3267/2023 are present before the Court. Anahita Kaka is also present. They admit the execution of the Consent Terms and contents thereof. The parties are identified by their respective Advocates.

7. Upon being enquired, the parties specifically state that they have read and understood the contents of the Consent Terms and they admit the same. They state that they will abide by the contents of the Consent Terms.

8. It appears that the parties have worked out a comprehensive settlement of dispute. It does not appear that there is any coercion or duress.

9. The Consent Terms, thus, are taken on record and marked 'X'.

10. In view of the aforesaid submissions and statements made before the Court and the Consent Terms, TP/3267/2024 stands dismissed as withdrawn.

11. Caveat No.45 of 2024 in TS/36/2024 also stands dismissed as withdrawn.

12. TS/36/2024 is reconverted into TP/2305/2023.

13. TP/2305/2023 be now proceeded with as an uncontested petition in accordance with the Consent Terms and the Rules.

14. The undertakings given in the Consent Terms ('X') are accepted as the undertakings to the Court.

15. The petitioner in TP/3267/2023 is entitled to refund of Court fees in accordance with Rules.

[N. J. JAMADAR, J.]