

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO. 3788 OF 2024
WITH
CHAMBER ORDER (L) NO. 389 OF 2024
IN
TESTAMENTARY PETITION NO. 3788 OF 2024
WITH
WILL NO. 1491 OF 2024
IN
TESTAMENTARY PETITION NO. 3788 OF 2024

Ashraf Ismail Selia ...Petitioner

Late Krishnaji Gautam Khodekar alias Khandekar ...Deceased

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Mr Rushabh Sheth, *with Shobhana Waghmare, for the Petitioner.*

CORAM. ARIF S. DOCTOR, J
DATED. 6TH FEBRUARY 2025

PC:-

1. The matter was placed on board pursuant to a praecipe filed the Learned Counsel appearing on behalf of the Petitioner.

2. Learned Counsel appearing on behalf of the Petitioner points out that the Testamentary Registrar vide an order dated 26th November 2024 *inter alia* raised the following two requisitions:

- i. Upon perusal of the Petition and the Will, I have observed that though the Petitioner being family friend of the deceased he is not aware of Class I as well as Class II heirs of the deceased.
- ii. Upon perusal of the Will, it is noticed that the stamp papers on which the Will is types is undated and stamp vendor details are not mentioned.

3. Learned Counsel appearing on behalf of the Petitioner seeks dispensation of these requisitions. It is his submission that while the Petitioner was in fact the family friend of the deceased, he was unaware of the Class I and Class II heirs. His submission is that this is a matter of fact. In any view of the matter, this reconciliation today would not survive since the Petitioner has applied for substituted service by way of paper publication. He points out that this order has already been complied with and the publication has been effected in Free Press Journal (English) and Navshakti (Marathi). He, therefore, submits that the requisitions, therefore, today untenable. He submits that insofar as the second requisition about the stamp paper is concerned, the law in this regard is settled that the Will need not be on a stamp paper and should be even on plain paper. Therefore, the fact the stamp paper is undated and the vendor details are not mentioned would not *ipso facto* invalidated the said Will. He also submits that the attesting witnesses

have filed their Affidavits in support of the due execution of the said Will. He submits that in the event the Will is challenged, then this question will be brought into Suit and decided by the Court. However, these are immaterial. I agree with the submissions made by the Learned Counsel appearing on behalf of the Petitioner. The publication has also been done. Additionally, in the event any objection is raised by any party regarding deficiency in the stamp paper (if any), the same shall be taken out and consider at an appropriate stage.

4. In view of this, the objections of the department are overruled.
5. Registry is directed to proceed accordingly.
6. The praecipe is disposed of in these terms.

(ARIF S. DOCTOR, J)