

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO.5173 OF 2024**

Vishwanath Ramsaran Mehra ... Deceased

Neelam Madhu Sharma ... Petitioner

**WITH
CAVEAT (L) NO.38935 OF 2024
IN
TESTAMENTARY PETITION NO.5173 OF 2024
WITH
CAVEAT (L) NO.38837 OF 2024
IN
TESTAMENTARY PETITION NO.5173 OF 2024
WITH
WILL NO.2066 OF 2024
IN
TESTAMENTARY PETITION NO.5173 OF 2024**

Mr. Uttam Rane i/by Miraj Bharapuria for the Petitioner.

Mr. Ravinder Singh (through VC) for the Caveator.

Ms. Neelam Madhu Sharma, Petitioner in person is present.

CORAM : ARIF S. DOCTOR, J.

DATE : 08TH JANUARY 2025

P.C. :

1. Today, the present Testamentary Petition is placed on board for withdrawal.

2. Mr. Rane, Learned Counsel appearing on behalf of the Petitioner, on instructions, seeks leave to withdraw the captioned Testamentary Petition, since he submits that the family members of the deceased have decided to amicably resolve all matters pertaining to the asset of the deceased amongst themselves.

3. Mr. Singh, Learned Counsel appearing on behalf of the Caveator opposes withdrawal of the Petition. He submits that by an order dated 3rd January 2025, passed by the Testamentary Registrar, the Petitioner was directed to serve the Testamentary Petition upon the Caveator. He submits that the Petitioner has not complied with the said order and, therefore, the Petitioner ought not to be permitted to withdraw the Petition. Learned Counsel further submits that it is only on account of the objections raised by the Caveator, which included serious allegations of fabrication and forgery, the Petition is now being withdrawn.

4. Having due regard to the rival contentions, I find no merit in the opposition to the withdrawal of the Testamentary Petition. The withdrawal of the Testamentary Petition cannot in any manner prejudice the Caveator since by withdrawal of the Petition, the very Will, which the Caveator was opposing, is

not being propounded. Thus the withdrawal of the Petition cannot affect the Caveator.

5. In view of the above, Testamentary Petition is dismissed as withdrawn.

6. All interlocutory applications, if any, shall also stand disposed of accordingly.

7. Refund of the Court fees, if any, in accordance with the Rules. For the purposes of Section 43 of the Maharashtra Court Fees Act and the proviso to that Section, today's date is the date of making a claim for repayment. The Prothonotary & Senior Master will issue a certificate for a refund of Court Fees computed according to the Rules. He will act on production of an authenticated copy of this order without requiring a separate application.

(ARIF S. DOCTOR, J.)