

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

MISCELLANEOUS PETITION NO. 168 OF 2025

IN

TESTAMENTARY PETITION NO. 1535 OF 2023

Kavya Hosbetkar Minor

Through By Natural Guardian Stella Hosbetkar

...Petitioner

Versus

Andrea Gonsalves

...Respondent

WITH

INTERIM APPLICATION (L) NO. 2571 OF 2025 (NOB)

WITH

TESTAMENTARY PETITION (L) NO. 12563 OF 2022 (NOB)

Mr. Karansingh Shekhawat for the Petitioner.

Mr. Viraj Parekh i/b G.S. Legal for the Respondent.

CORAM : ARIF S. DOCTOR, J.

DATE : 23rd APRIL, 2025

P.C. :

1. The Interim Application is filed under Section 301 of the Indian Succession Act, 1925 for removal of the Petitioner to the captioned Testamentary Petition as an executor. Learned Counsel for the Petitioner makes a statement that on account of substantial events, the Petitioner is desirous of withdrawing the captioned Testamentary Petition. Given this, the captioned

Miscellaneous Petition has become infructuous.

2. He submitted that the Petitioners have themselves filed an Interim Application (L) No. 2571 of 2025 in which the Applicant has specifically sought leave of this Court to withdraw the captioned Testamentary Petition. He therefore submitted that the said Interim Application be allowed. To this, Mr. Shekhawat has no objection to the Interim Application being allowed. Hence, Interim Application (L) No. 2571 of 2025 is allowed in terms of prayer clause (a), which reads thus:

“ that this Hon’ble Court be pleased to pass an order allowing the Applicant to withdraw the present Petition for Probate, being Testamentary Petition No. 1535 of 2023.”

3. In view of this, the Miscellaneous Petition No. 168 of 2025 does not survive and is accordingly disposed of.

TESTAMENTARY PETITION (L) NO. 12563 OF 2022 (NOB):

4. By consent, Learned Counsel submitted that the Court Receiver be appointed in respect of the Flat No. 401, Agnes Villa, Vile Parle (E), Mumbai-400 056, and that the said premises may be then given out on a leave and license basis by the Court Receiver. The monies generated from the said flat shall be deposited with the Court.

5. Thus, the Court Receiver is appointed and is directed to give out the said flat on a leave and license basis, after complying with the regular procedure.

6. In view of the fact that the present Petition is for probate as being dismissed as withdrawn, Registry to proceed with the Testamentary Petition.

7. Since a caveat has been filed in that Petition, the same shall therefore be converted into a Testamentary Suit.

(ARIF S. DOCTOR, J.)