

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO.3591 OF 2024**

Rekha Bhadresh Mody

... Deceased

Sandeep Bhadresh Mody

... Petitioner

**WITH
WILL NO.1413 OF 2024
IN
TESTAMENTARY PETITION NO.3591 OF 2024**

Mr. Anand Mohan a/w Pratik Jhaveri for the Petitioner.

CORAM : ARIF S. DOCTOR, J.

DATE : 13TH MARCH 2025

P.C. :

1. Learned Counsel appearing on behalf of the Petitioner seeks dispensation of the following requisition raised by the Testamentary Registrar vide an order dated 22nd January 2025.

“While perusal of the Will which is called from the registry, it is found that Will dated 25.2.2000 is not the original Will which is submitted into the registry. Advocate for the petitioner requires to seek instructions from his client as the petition cannot be proceed without original Will as the Advocate presented copy of the Will as well as two codicil dated 28.4.2005 and 26.09.2013. While perusal of the Will it has been seen that those are true copy of Will but the original is not filed in the registry and the photocopy of the Will cannot be filed without the permission of the Hon’ble Court.”

2. Learned Counsel for the Petitioner invited my attention to Section 237 of the Indian Succession Act, 1925, which reads thus:

“237. Probate of copy or draft of lost Will. – When a Will has been lost or mislaid since the testator’s death, or has been destroyed by wrong or accident and not by any act of the testator, and a copy or the draft of the Will has been preserved, probate may be granted of such copy or draft, limited until the original or a properly authenticated copy of it is produced.”

3. From the above, he pointed out that the same *inter alia* provided for grant of Probate on the basis of a copy of the Will and not necessarily only on original Will. In light of the aforesaid, he submitted that the requisition raised by the Registrar was therefore untenable.

4. Having due regard to the submissions made and in lieu of the specific provision contained in Section 237, reproduced above, I find that the Registry can today proceed on the basis of a true copy of the said Will, which has been produced by the Petitioner.

5. The aforesaid requisition is accordingly dispensed with.

6. Office to proceed accordingly.

(ARIF S. DOCTOR, J.)