

sumedh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
INTERIM APPLICATION NO.1316 OF 2024
IN
TESTAMENTARY SUIT NO.38 OF 2019

Sambhaji Vinayak Jagtap ... Applicant
In the matter between
Govind Ramchandra Gole ... Deceased

Sambhaji Vinayak Jagtap ... Plaintiff/Applicant
V/s.
Santosh Subhash Khandagale ... Defendants

Mr. Sharan Jagtiani, Senior Advocate a/w. Adv. Siddharth Joshi i/by Adv. Varsha Bhogle for the Petitioner/Applicant.
Mr. Amjith Anandan a/w. Adv. Sachin Pawar, Adv. Dewant Mhatre for Defendant Nos.3 to 7

CORAM : Kamal Khata, J.
DATED : 30th July 2025.

P.C.:-

1. Mr. Jagtiani, learned senior Counsel for the Plaintiff, submits he is constrained to seek the issuance of witness summons to the attesting witness, as he is refusing to offer himself for cross examination by the Defendant's Advocates. This refusal stems from the fact that the attesting witness has been cross-examined on six occasions, during which 135

questions were put to him, many of which were clearly irrelevant.

2. Learned Senior Counsel submits that the list of such questions are tabulated at paragraph 13 of the Interim Application.

3. Upon perusal of the said questions, it is evident that those questions set out are clearly irrelevant to the issue at hand. The nature and volume of questions appear to have caused considerable annoyance to the attesting witness, resulting in his unwillingness to continue with the cross examination.

4. Learned Advocate for Defendant Nos.3 to 7 submits that the previous Advocates have taken discharge and that they are now on record as the new Advocates. He submits that there is no objection to the issuance of witness summons to the attesting witness and further gives an assurance to the Court that they will make all efforts to complete the cross - examination in a single session.

5. In view of the above, issuance of a witness summons to the attesting witness is directed.

6. The Interim Application is allowed in terms of prayer clauses (a) and (b).

7. Ms. Geeta Sonawane, Court Commissioner appointed earlier, shall record the evidence of the attesting witness.

8. The Interim Application stands disposed of accordingly.

9. Liberty is granted to the Plaintiff to apply for appropriate directions in the event the Defendants' Advocate fails to adhere to the assurance given.

(Kamal Khata, J.)