

HARSHADA H. SAWANT
(P.A.)

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

TESTAMENTARY PETITION NO.2035 OF 2025

Vinayak Dinkar Khandalekar alias Vinayak D.
Khandalekar .. Deceased

Dattatray Vinayak Khandalekar .. Petitioner

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• Mr. Uttam Rane, Advocate for Petitioner.

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 15, 2025

P.C.:

1. Not on Board. Mentioned by way of filing praecipe dated 15.09.2025. Perused the praecipe.

2. Heard Mr. Rane, learned Advocate for Petitioner.

3. Learned Officer on Special Duty in Testamentary Department has raised an objection in clause No.4 of the order dated 07.07.2025.

4. Mr. Rane would submit that out of the four witnesses, two witnesses were present at the time of execution whereas other two were present at the time of registration.

5. He would submit that Affidavit of one witness is filed who was present at the time of registration. He would submit that out of two witnesses who were present during Execution, one has expired in the interregnum whereas second witness is a senior citizen and resident of Sindhudurg and therefore Petitioner has difficulty in

obtaining his Affidavit. He would therefore submit that this Court in view of Affidavit of witness who was present at time of registration be pleased to dispense with requirement of Rule 384 of the Bombay High Court (O.S.) Rules, 1980.

6. Having perused Rule 384 of Bombay High Court (O.S.) Rules, 1980 which relates to a situation that in the absence of attesting witness, other evidence can be produced, and in view of Affidavit of witness Mr. Balkrishna Roge who was present at the time of registration having filed, the said requirement under Rule 384 is the fact of this case as per order dated 07.07.2025 is dispensed with.

7. Office is directed to accept the Affidavit of the attesting witness Mr. Balkrishna Roge as adequate compliance of evidence produced and proceed in accordance with law.

8. Praecipe is disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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