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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION (L) NO. 29537 OF 2025
IN
CAVEAT (L) NO. 6112 OF 2025
IN
TESTAMENTARY PETITION NO. 4564 OF 2024

Varsha Pritam Deshmukh	.. Applicant
<u>IN THE MATTER BETWEEN</u>	
Shivajirao Sakharam Jondhale	.. Deceased
Nilesh Narayan Mandavkar	.. Petitioner

WITH
INTERIM APPLICATION NO. 5766 OF 2025
IN
TESTAMENTARY PETITION NO. 4564 OF 2024

Nilesh Narayan Mandavkar	.. Applicant
Versus	
Varsha Pritam Deshmukh	.. Respondent
<u>IN THE MATTER BETWEEN</u>	
Late Shivajirao Sakharam Jondhale	.. Deceased
And	
Nilesh Narayan Mandavkar	.. Petitioner

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- Mr. Vishal Kanade a/w. Shrey Shah, Advocates i/by Hudda & Associates for Caveator and Applicant in Interim Application (L) No.29537 of 2025.
 - Mr. Yogesh Naidu, Advocate i/by Mr. Shivaji Nirmale for Applicant in Interim Application No.5766 of 2025 and Respondent No.1 in Interim Application (L) No.29537 of 2025.

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CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 06, 2025.

P.C.:

1. Heard Mr. Kanade, learned Advocate for Caveator and Applicant in Interim Application (L) No.29537 of 2025 and Mr. Naidu,

learned Advocate for Applicant in Interim Application No.5766 of 2025 and Respondent No.1 in Interim Application (L) No.29537 of 2025.

2. This is a group of two Interlocutory Applications. Interim Application No.5766 of 2025 is filed by Executor – Nilesh Narayan Mandavkar seeking modification of the order dated 09.04.2025 passed in Testamentary Petition No.4564 of 2024 and for the original Will to be withdrawn from Court. However while that order was passed, liberty was not given to Petitioner / Executor to file fresh Petition, if so desired in accordance with law. In view of liberty not having been given, Interim Application No.5766 of 2025 is filed by Executor seeking such liberty to enable him to file fresh Testamentary Petition in respect of the subject Will.

3. Second Application namely Interim Application (L) No.29537 of 2025 is filed by the Caveatrix – Varsha Pritam Deshmukh, *inter alia*, seeking certain directions and modifications in respect of the directions contained in paragraph No.8 of the order dated 16.04.2025. When this matter was mentioned before me on 10.09.2025, the following order was passed:-

“1. Not on Board. Mentioned by way of filing praecipe dated 10.09.2025. Perused the praecipe.

2. Heard Mr. Ardeshir, learned Senior Advocate for Petitioner and Mr. Kanade, learned Advocate for Caveator.

3. The subject Will which has been deposited by Petitioner shall not be returned to Petitioner without the leave of the Court till the next adjourned date.

4. *List the Petition on 17th September, 2025.*

5. *Praecipe is disposed.”*

4. In essence the original Will is filed in the Department and the order dated 10.09.2025 essentially takes care of the apprehension expressed by the Caveatrix.

5. Today, when Interim Application No.5766 of 2025 is heard, Mr. Naidu, learned Advocate appears for the Executor and Mr. Kanade, learned Advocate appears for Caveatrix. He has no objection if the modification requested by Mr. Naidu to give the Executor liberty to file fresh Petition is allowed subject to two submissions. Firstly, he states that Caveatrix has filed a police complaint alleging that the original Will is a fabricated and forged document by the Executor and steps are taken to prosecute the Executor. He would submit that as a consequence thereof, this Court will have to be apprised about the same as and when that happens. Secondly, he would submit that if Executor desires to file a fresh Testamentary Petition, then in that case appropriate directions should be passed to issue citation on the Caveatrix so that the Caveatrix can contest. The stand adopted by Mr. Kanade appears to be fair. Hence, there can be no impediment in allowing Interim Application No.5766 of 2025 as prayed for. In that view of the matter, liberty is granted to Executor to file a fresh Testamentary Petition.

- 6.** This order shall be read alongwith order dated 09.04.2025. In view of the above order, Department is directed to retain original copy of the Will and no further orders are required to be passed in Interim Application (L) No.29537 of 2025 filed by Caveatrix.
- 7.** Needless to state that all contentions of the parties are expressly kept open including objections of the Caveatrix.
- 8.** Needless to further state that the last sentence of paragraph No.8 of the order dated 16.04.2025 shall not be complied with in view of the aforesaid order. This order shall be read alongwith the order dated 16.04.2025 also.
- 9.** The Executor is exempted from filing original copy of the Will in the fresh Petition in view of the above order since the Department is already seized of the original Will and it shall be referred to in the fresh Testamentary Petition that shall be filed by the Executor.
- 10.** The direction contained in paragraph No.3 of the order dated 10.09.2025 stands continued.
- 11.** In view of the above, both Interim Applications are allowed and disposed.
- 12.** Liberty to apply.

[MILIND N. JADHAV, J.]