

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12723 OF 2025

Champabai Deoji Dhore Since Deceased
through LR's

...Petitioners

Versus

Dnyanoba Narayan Dhore (since deceased)
Through LR's And Ors.

...Respondents

Mr. Kayval Shah, for the Petitioners.

CORAM: N. J. JAMADAR, J.

DATED: 13th JANUARY, 2026

Oral Order:-

1. Heard the learned Counsel for the petitioners.
2. The challenge in this petition is to an order dated 17th June, 2025 passed by the learned Civil Judge, whereby an application preferred by the petitioners – plaintiffs seeking a direction to defendant No.1(b) to prove the alleged Will of Devji Bhiku Dhore dated 6th February, 1987 prior to his cross-examination in accordance with the provisions contained in Section 68 of the Indian Limitation Act, came to be rejected.
3. The learned Counsel for the petitioners submitted that the learned Civil Judge has marked the purported Will in evidence at Exhibit-139 without the Will having been duly proved in evidence in accordance with the provisions contained in Section

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63 of the Indian Succession Act and Section 68 of the Indian Evidence Act. Defendant No.1(b) was, thus, enjoined to prove the said Will in accordance with the said provisions. The learned Civil Judge after noting the provisions in regard to the mode of proof of Will where the attested witnesses cannot be found, was persuaded to reject the application.

4. At this stage, it would suffice to clarify that mere exhibition of a document is not proof of the document. The question as to whether the Will (Exhibit-139) has been duly proved in evidence would be required to be determined by the trial Court at the stage of adjudication. Thus, keeping open the question as to whether the Will (Exhibit-139) has been duly proved in evidence, to be decided at the trial, the petition stands disposed.

[N. J. JAMADAR, J.]