

Amberkar

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

TESTAMENTARY PETITION NO. 2139 OF 2025

Mehmooda Iqbal Lukmani

.. Petitioner

Versus

Mamoon Badruddin Lukmani alias

Mamoon Badruddin Lukamani

.. Respondent

**WITH
TESTAMENTARY SUIT NO. 118 OF 2026
WITH
WILL NO. 842 OF 2025
WITH
CAVEAT NO. 149 OF 2026
WITH
CAVEAT (L) NO. 37126 OF 2025**

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- Ms. Roohita Javed Shaikh, Advocate for Petitioner
- Ms. Prachi Kolambekar i/by M/s. Thodur Law Associates, Advocates for Caveator
- Ms. Smruti Kanade a/w Ms. Shreya Bhagnari i/by M/s. Negandhi Shah & Himayatullah for Soledad Gramajo (handwriting not readable), Legal Heir of Deceased

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 10, 2026

P. C.:

1. Heard learned Advocates appearing for the parties.
2. Application is made on praecipe by Petitioner for withdrawal of Petition. Petitioner has sought leave to withdraw the Petition unconditionally. The Will has been deposited in Court. It shall remain in Court. In the Petition, Caveat was filed by Caveator.

3. Though learned Advocate for Caveator vehemently submits that this Court should not allow withdrawal of Petition because if Petition is withdrawn, it will leave Will hanging in the Air. Petitioner is one of the legatee under the last Will and Testament of the deceased. Learned Advocate for Caveator has placed before me a decision of this Court dated 10th / 16th February 2021 passed in Testamentary Petition No. 563 of 2018 to contend the aforesaid position and opposed withdrawal of Petition. After reading the said decision, I am of the opinion that the facts in that case would not apply to the facts in the present case before me at all whatsoever. In that view of the matter, liberty which is sought to be argued by Advocate for Caveator stands summarily rejected by this Court.

4. Since the Will is deposited with this Court, if any Application is made for withdrawal of Will by filing notarized copy by Petitioner and / or his Advocate, the same shall not be returned to the Petitioner without hearing or giving notice to the Caveator.

5. Petition is allowed to be withdrawn and disposed. Suit as also Caveats are also disposed.

6. Refund of Court fee as per Rules.

7. The Registry shall issue the refund certificate for Court fees within a period of two weeks from today on the basis of a server copy

of this order. The refund certificate shall be submitted by **Petitioner** to the Collector of Stamp Duty, First Floor, Old Customs House, Mumbai which is the concerned office. Copy of this order shall also be served on the Collector of Stamps, First Floor, Old Customs House, Mumbai.

8. I am informed by several parties who seek such refund that an extraordinary long period of time is taken for refund of the Court fees from the Collector's Office and thereafter from the Pay and Accounts Office. Collector of Stamps shall personally look into this and ensure that the Plaintiff is refunded the Court fees on presentation of a server copy of this order and the refund certificate / letter is issued within a period of four weeks thereafter at the highest. Petitioner shall give all other details to the Collector of Stamps and the aforesaid order shall be complied with strictly.

9. I am informed that refund of Court fees is then actually issued by the Pay and Accounts Department situated at Bandra. Copy of this order shall also be placed before the Collector of Stamps, Mumbai City and Collector of Stamps, Mumbai MSD and the In-charge of Pay and Accounts Department, Bandra.

10. I am informed that after refund certificate is filed, Collector of Stamps Office has to issue letter / some order to the Pay and Accounts Department for generating the refund and the refund is thereafter received from the Pay and Accounts Department of the State of

Maharashtra situated in Bandra. In-charge of the Pay and Accounts situated at Bandra is therefore directed to ensure that whenever letter regarding for refund of Court fees is received from the Office of the Collector of Stamps, the same shall be complied with by its Office within a period of four weeks from the date of receipt of such request and there shall be no delay in this compliance and refund whatsoever.

11. This order is issued by Court because this Court in the present roster has received several complaints that even after orders for refund are issued by the Registry of this Court, *inter alia*, relating to refund of Court fees the same takes an invariably long period of time to get the refund of Court fees and sometimes more than a year.

12. Copy of this order shall be placed before the Registrar General of this Court and he is directed to inform the aforementioned Authorities to ensure that the concerned Government Officers shall comply with the above directions and timeline in the interest of the litigants as soon as the refund certificate is issued within the time stipulated in this order.

13. Collector of Stamps, Mumbai City and Collector of Stamp, MSD are also directed to take cognizance of this order and ensure that compliance of timelines given in this order are duly complied with in all cases of refund of Court fees which are granted by this Court.

[MILIND N. JADHAV, J.]