

HARSHADA H. SAWANT
(P.A.)

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

**TESTAMENTARY PETITION NO.2503 OF 2026
WITH
WILL NO.920 OF 2026**

Jamnadas Velji Thakker .. Deceased
Bijesh Jamnadas Thakker .. Petitioner

**WITH
TESTAMENTARY PETITION NO.3258 OF 2025
WITH
CAVEAT (L) NO.22763 OF 2025
WITH
WILL NO.1243 OF 2025
IN
TESTAMENTARY PETITION NO.3258 OF 2025**

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- Mr. Kirti Munshi, Senior Advocate a/w. Ms. Duraiya S. Retiwala and Ms. Shahana Akhtar, Advocates for Petitioner.
 - Mr. Shanay Shah a/w. Mr. Rohan Dakshini and Ms. Urvi Gupte, Advocates i/by M/s. Rashmikanth and Partners for Petitioner in Testamentary Petition No. 3258 of 2025.
 - Mr. Kirti Munshi, Senior Advocate a/w. Ms. Vidhi Raichana, Advocates i/by Nityoah Suneel & Associates for Caveator No.1.
 - Mr. Gaurang Mehta a/w. Ms. Rhea Mehta, Ms. Hiteishi Sharma, Advocates i/by Ms. Dipal Mehta for Caveator No.2.

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CORAM : MILIND N. JADHAV, J.

DATE : MAY 08, 2026

P.C.:

- 1.** Heard learned Advocates appearing for the respective parties.
- 2.** Three Testamentary Petitions have been filed in respect of the last will and testament dated 31.10.2010 (**“Last Will and**

Testament”) of Late Jamnadas Velji Thakker (Deceased) by all the three named executors separately. Testamentary Petition No.2503 of 2026 is filed by Bijesh Thakker seeking grant of probate of the Last Will and Testament of the deceased. Testamentary Petition No.3258 of 2025 is filed by Bayjool Desai for seeking probate of the photocopy of the Last Will and Testament of the deceased, limited till the original is produced. Mukesh Talsania has filed C.M.A. No.13 of 2015 before the Ld. Principal Civil Judge, Gondal for grant of probate of the Last Will and Testament of the deceased.

3. All the three named executors, out of which Bayjool Desai and Bijesh Thakker are the only legal heirs of the Deceased, have accepted the Last Will and Testament propounded in the Testamentary Petitions. After perusing the Petitions, the Last Will and Testament, the Petitioner’s Oath and the Affidavits of the Attesting Witnesses, the Will, (the original whereof is in the custody of the Prothonotary and Senior Master of this Hon’ble Court in Testamentary Petition No. 2503 of 2026), stands sufficiently proved. Therefore, Probate requires to be issued and it is accordingly ordered in Testamentary Petition No. 2503 of 2026. Both Bayjool Desai and Mukesh Talsania’s Advocates on instructions from their respective clients inform the court that they exercise the option of joining in this Petition as Co-Petitioners and proving Executors. Amendments in this regard to be carried out on or before 15.06.2026. The Testamentary Registrar shall permit

amendment of the Testamentary Petition No.2503 of 2026 to bring Bayjool Desai and Mukesh Talsania on record as Co-Petitioners, without further reference to this Court. Once Bayjool Desai and Mukesh Talsania join in as Co-Petitioners, the grant of Probate shall be issued jointly to all Executors who are Co-Petitioners. Re-verification is dispensed with.

4. The office of the Prothonotary and Senior Master of this Hon'ble Court to issue the grant of Probate as prayed for in Testamentary Petition No.2503 of 2026 subject to the Petitioner/Co-Petitioners complying with the following office requisitions within eight weeks from the date of passing of this Order:

4.1. General Citation to be issued and affixed on the High Court Notice Board and the Collector's Notice Board and Affidavit proving the same to be filed in the Registry.

4.2. Notice to Collector to be issued under Rule 396 of the Bombay High Court Rules (O.S.).

5. The Office of the Prothonotary and Senior Master [Testamentary Registrar' Office] is directed to issue the grant of Probate within two weeks from the date of compliance by the Petitioner/Co-Petitioners with the above requisitions in Testamentary Petition No.2503 of 2026.

6. Mukesh Talsania and Bijesh Thakker to withdraw C.M.A. No. 13 of 2015 before the Ld. Principal Civil Judge, Gondal, unconditionally on or before 19.06.2026. Mukesh Talsania shall file an Executor's Oath in the Testamentary Petition No. 2503 of 2026. The Executor's Oath of Bayjool Desai filed in Testamentary Petition No. 3258 of 2025 shall be treated as having been filed in Testamentary Petition No. 2503 of 2026.

7. In Testamentary Petition No. 3258 of 2025, Bijesh Thakker and Mukesh Talsania have filed a joint Caveat dated 21.07.2025 being Caveat (L) No. 22763 of 2025. The Advocates for Bijesh Thakker and Mukesh Talsania on instructions state that their clients hereby apply for withdrawal of the joint caveat dated 21.07.2025 being Caveat (L) No. 22763 of 2025 in Testamentary Petition No. 3258 of 2025. The joint Caveat is hereby permitted to be withdrawn.

8. The original Last Will and Testament is already in the custody of this Court in Testamentary Petition No. 2503 of 2026 and numbered as Will No. 920 of 2026. In view of the grant of probate being allowed in Testamentary Petition No. 2503 of 2026, Testamentary Petition No. 3258 of 2025 does not survive and is disposed of. Refund of Court fees in Testamentary Petition No. 3258 of 2025 to the Petitioner therein as per rules.

9. The Registry shall issue the refund certificate 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.

10. I am informed by several Petitioners 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 Petitioner 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.

11. 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.

12. 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 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.

13. This order is issued by Court because this Court in the present roster while handling Testamentary Petitions 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 realise the Court fees and sometimes more than a year.

14. 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.

15. 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.

16. All allegations made by the parties against each other in all the proceedings stand unconditionally withdrawn.

17. Liberty to apply, if necessary.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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by HARSHADA
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