

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

TESTAMENTARY PETITION NO. 462 OF 2018

Shaunak Choksi ...Plaintiff

Versus

Harshad Hirilal Choksi (Deceased) ...Defendant

**WITH
INTERIM APPLICATION (L) NO. 38080 OF 2025**

Shaunak Choksi ...Applicant/
Org.Petitioner

Versus

The Official Assignee of Bombay ...Defendant

**WITH
INTERIM APPLICATION NO.-2156 OF 2023**

Shaunak Choksi ...Applicant/
Org.Petitioner

Versus

Ketan Kishoredas Mehta ...Caveator/
Defendant

**WITH
CAVEAT IN TESTAMENTARY (L) NO. 191 OF 2018
WITH
WILL NO.166 OF 2018
IN
TESTAMENTARY PETITION NO. 462 OF 2018**

Mr. Gaurang Mehta with Ms. Vidhi Dharia with Mr. Amey Mahajan, for

Applicant in IAL/38080/2025.

Ms. Khushboo Chughani, for Respondent-Caveator in TP/462/2018.

Ms. Chandan Bhatt, Official Assignee, Present.

Mr. Subhodh Patil, Deputy Official Assignee.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : DECEMBER 18, 2025

P. C. :

INTERIM APPLICATION (L) NO. 38080 OF 2025

1. The Interim Application has been preferred by the Original Petitioner, seeking leave to amend the Petition in accordance with the draft amendment annexed at Annexure – A to the present Application.
2. Learned Counsel appearing for the Petitioner submits that during the lifetime of the deceased, the deceased was adjudicated an undischarged insolvent and post-adjudication proceedings are pending with the Official Assignee. He submits that the Official Assignee had filed a report dated 13th February 2019 seeking transfer of the Testamentary Petition to the Insolvency Court in view of Section 108 of the Presidency Towns Insolvency Act, 1909. He further submits that an objection was taken that the factual

aspects as regards the insolvency proceedings were not disclosed in the Testamentary Petition. He submits that in order to obviate any further controversy, the present Application has been filed to place on record the facts as regards the insolvency. He submits that the Petition has not yet been converted into a Suit and is still numbered as Testamentary Petition.

3. Considering that by way of the amendment, the Applicant seeks to bring on record the factual position as regards the deceased being an undischarged insolvent at the time of his demise, the amendment can be allowed in terms of Annexure – A.

4. The Interim Application is allowed.

5. Amendment to be carried out within a period of four weeks from the date of uploading of the order on the official website.

**OFFICIAL ASSINGEE'S REPORT IN
TESTAMENTARY PETITION NO. 462 OF 2018**

6. The Official Assignee's Report dated 13th February 2019 seeks an order of transfer of the Testamentary Petition No. 462 of 2018 from the Testamentary Court to the Insolvency Court to be heard along with the pending Insolvency Petition.

7. The prayer in the Official Assignee's Report is clearly misconceived, as the Insolvency Court will not have the jurisdiction

to decide the genuineness and authenticity of the Will of the deceased, which jurisdiction vests exclusively with the Testamentary Court.

8. In light of the above, the Official Assignee's Report dated 13th February 2019, stands disposed of.

INTERIM APPLICATION NO.-2156 OF 2023

9. Learned Counsel appearing for the Caveator tenders the affidavit-in-reply. The same is taken on record.

10. Stand over to 14 January 2026 along with IA No.2807 of 2024.

[SHARMILA U. DESHMUKH, J.]