

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

Amk

TESTAMENTARY SUIT NO. 41 OF 1993
IN
TESTAMENTARY PETITION NO. 196 OF 1993

Prasankunver P. Gohil & Ors. .. Plaintiffs
Vs.
Pratap P. Gohil & Ors. .. Defendants

Mr. U. J. Makhija i/b Mr. Jayesh Bhatt for the Plaintiff.
Mr. Vivek Walawalkar i/b Mahesh Jani & Co. for Defendant No.2.

WITH
SUIT NO. 1084 OF 1993

Vikram Pratap Gohil & Ors. .. Plaintiffs
Vs.
K. P. Gohil & Ors. .. Defendants

Mr. Vivek Walawalkar i/b Mahesh Jani & Co. for the Plaintiff.
Mr. U. J. Makhija i/b Mr. Jayesh Bhatt for Defendant No.8.

WITH
TESTAMENTARY SUIT NO. 21 OF 1995
IN
TESTAMENTARY PETITION NO. 13 OF 1995

R. P. Gohil .. Plaintiff
Vs.
Pratap P. Gohil & Ors. .. Defendants

Mr. U. J. Makhija i/b Mr. Jayesh Bhatt for the Plaintiff.
Mr. Vivek Walawalkar i/b Mahesh Jani & Co. for Defendant No.2(b).

CORAM : **MRS. ROSHAN DALVI, J.**
Date : **28th MARCH, 2012.**

P.C.

1. Admissibility of the documents are considered as under :

1. Public notice dated 20.06.2001 is, by consent, marked **Exhibit A**.
2. Acknowledgment dated 15.04.1981 for receipt of shares of GBPL is, by consent, marked **Exhibit B**.
3. Indemnity dated 15.04.1981 of one Ranjitbhai is, by consent, marked **Exhibit C**.
4. Copy letter addressed by GBPL to State Bank of India dated 02.12.1978 is, by consent, marked **Exhibit D**.
5. Copy of minutes of the GBPL approving transfer of shares dated 02.12.1978 is, by consent, marked **Exhibit E**.
6. Certificate of registration and articles of memorandum of GBPL are, by consent, marked **Exhibit F** collectively.
7. Annual returns of GBPL dated 31.12.1972 is marked **Exhibit G**.
8. Will dated 20.01.1991 is marked 'X' for identification.
9. Copy of the letter of cancellation of the Will dated 03.05.1992 is, by consent, marked **Exhibit H**.
10. Will dated 24.05.1992 is marked 'X-1' for identification.
11. Copy of the Will dated 23.10.1992 which is sought to be probated in this petition is marked **Exhibit J** for the sake of convenience.
12. Certified copy of the N.C. Complaint No. 6435 dated 21.11.1988 issued by the Senior Inspector of Police, Mahim Police Station is marked **Exhibit K** upon the statement of the deponent in para 14 of the affidavit of examination-in-chief.
13. Doctor's opinion dated 13.10.1992 is marked 'X-2' for identification.
14. Copy of the letter dated 12.09.1992 addressed by the deceased is, by consent, marked **Exhibit L**.
15. Death certificate of defendant No.1 is marked **Exhibit M**.
16. Copy of the condolence note is not relevant and hence not marked.
17. Letter dated 15.09.1992 addressed by defendant No.5 to original

defendant No.1 and received by the defendants in which signature and handwriting of defendant No.5 is identified by the deponent in para 20 of the affidavit of examination-in-chief is marked **Exhibit N**.

18. There are 4 aerogrammes dated 04.01.1978, 02.03.1978, 23.05.1978 and 04.07.1978 photo copies of which are produced are marked **Exhibit O** collectively upon the evidence of the deponent in para 21 of the affidavit of examination-in-chief identifying the handwriting as well as the signature of the deceased wife.

19. Declaration of Pratapsingh in which corrections are made in the handwriting of Pratapsingh which are identified by the deponent in para 22 of the affidavit of examination-in-chief is marked **Exhibit P**.

20. Declaration of Dilipsingh is at present not marked because there is no oral evidence to prove the document by direct oral evidence.

21. Bills for repairs are marked 'X-3' for identification.

22. No affidavit can be marked as exhibit in evidence and hence 4 affidavits relied upon by the plaintiffs are not marked.

2. The plaintiff shall be entitled to use record and proceeding at the time of cross-examination as and when required.

3. The plaintiff has not filed the affidavit of evidence for proving further documents to be relied upon by the plaintiff in the Testamentary Suit (who is defendant in Administration Suit). The plaintiff shall file such further affidavit of evidence as may be required to prove such further documents as are required to be proved.

4. S. O. for 2 weeks.

(ROSHAN DALVI, J.)