

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

TESTAMENTARY SUIT NO.31 OF 2011

IN

TESTAMENTARY PETITION NO.964 OF 2010

Kalpana Satyadev Tripathi ... Plaintiff
Vs.
Anant Chimanlal Bhatt ... Defendant

Ms. Rachana Karad a/w. Mr. Pankaj Shinde i/b. The Juris Partners for Plaintiff.
None for Defendant.

CORAM : MANISH PITALE, J.
DATE : MARCH 04, 2024

P.C. :

. In this suit, direction was issued by order dated 16.09.2019 for the affidavit of the witnesses of the plaintiff to be placed on record and the time was extended by subsequent order dated 09.10.2019. Thereafter, the suit has not progressed at all.

2. It appears that on the said date, this Court (Coram : A. K. Menon, J.) was not apprised of the fact that even issues were not framed. Hence, issues need to be framed for the plaintiff to be granted permission to place on record affidavits in evidence of her witnesses.

3. Heard learned counsel for the plaintiff. There is no appearance on behalf of the defendant.

4. This Court has perused the material on record including the affidavit in support of the caveat filed on behalf of the caveator / defendant. On the basis of the objections raised in the said affidavit, the following issues are framed:-

- “i. Whether the plaintiff proves that the Will dated 28.03.2005 is the validly executed last Will and Testament of the deceased?
- ii. Whether the plaintiff proves that at the time of execution of the said Will, the deceased was in a sound and disposing state of mind, memory and understanding?
- iii. Whether the defendant proves that the Will is a forged and fabricated document?
- iv. Whether the defendant proves that the deceased executed the Will under influence and coercion?
- v. What order?”

5. The plaintiff shall now place on record her list of witnesses, affidavits in lieu of examination in chief of the witnesses, affidavit of documents and compilation of documents within three weeks from today.

6. List for further directions on 27.03.2024.

(MANISH PITALE, J.)

Minal Parab