

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

SUIT NO.24 OF 2023

IN

PETITION NO.2599 OF 2022

Nipun Navnit Mehta ... Plaintiff

**Vs.**

Neeta Harshkant Mehta and others ... Defendants

Sreekant Surajmal Mehta @ Srikant Surajmal Mehta @  
Shreekant Surajmal Mehta @ Shrikant Surajmal Mehta ... Deceased

Mr. Vivek Kantawala a/w. Mr. Zain A. K. Najam-es-sani i/b. Mr. Zain A. K.  
Najam-es-sani for Plaintiff / Original Petitioner.

Mr. Arshil Shah a/w. Ms. Smita Durve for Defendants.

**CORAM : MANISH PITALE, J.**

**DATE : FEBRUARY 07, 2024**

**P.C. :**

. Oath is administered to P.W.1.

P.W.1 : Vivek Sivaprakasam

Age : 40 years

Occupation : Businessman

Address : 58/1, Gandhi Road, Salem - 636 007,  
Tamil Nadu, India.

**Examination-in-chief of P.W.1 on S.A.**

. I have filed affidavit in lieu of examination-in-chief dated  
28.06.2023. I have signed at the foot of the said affidavit and I identify  
my signature. I affirm that whatever stated in the said affidavit is true to  
my knowledge and it is correct. It was prepared under my instructions.

. Oath is administered to P.W.2.

P.W.2 : Desikan Venkatesh Prasad

Age : 68 years

Occupation : Chartered Accountant

Address : 2, Swarnamaligai Agraharam,  
Salem - 636 001, Tamil Nadu.

**Examination-in-chief of P.W.2 on S.A.**

I have filed affidavit in lieu of examination-in-chief dated 28.06.2023. I have signed at the foot of the said affidavit and I identify my signature. I affirm that whatever stated in the said affidavit is true to my knowledge and it is correct. It was prepared under my instructions.

1. The witnesses are discharged.
2. The affidavit in lieu of examination-in-chief dated 28.06.2023 of P.W.1 is taken on record and marked 'PW1-1'. The affidavit in lieu of examination-in-chief dated 28.06.2023 of P.W.2 is taken on record and marked 'PW2-1'.
3. The subject Will dated 19.06.2011 is already on record. The defendants are denying the existence and contents of the said Will. Hence, it is marked as 'exhibit-P1', subject to proof.
4. Affidavit of documents along with the compilation of documents is also filed. There is only one document sought to be placed on record on behalf of the plaintiff, which is the print out of e-mail dated 19.06.2011 along with a certificate dated 28.06.2023 issued by P.W.2 - D. Venkatesh Prasad. The defendants are denying the aforesaid document. Hence, it is marked as 'exhibit-P2', subject to proof.
5. The cross-examination of the witnesses of the plaintiff will have to be undertaken. For that purpose, Ms. Ayushi Anandpara, advocate practicing in this Court is appointed as Commissioner for recording of cross-examination of the said witnesses. The details of the court commissioner are as follows:-

**Ms. Ayushi Anandpara**

Chambers of Rohaan J. Cama, Office Nos.17-18,  
Islam Building, 46-48, Veer Nariman Road,  
Fort, Mumbai 400 001.

**Email id:** ayushi.anandpara@gmail.com / **Mobile :** 98331 44496.

6. All cross examination shall be conducted strictly in question and answer form.
7. The Commissioner is at liberty to exercise discretion under Order XVIII, Rule 4(4) of the Code of Civil Procedure, 1908 to note the demeanour of the witness wherever necessary.
8. The Commissioner will also be at liberty to direct that the whole or any part of the cross-examination should be video recorded for later reference of the Court. Should that be done, the original audio visual recording will be submitted along with the Commissioner's report to the Registry.
9. Costs of the commission shall be borne by the plaintiff.
10. The plaintiff shall also pay costs of Rs.500/- per hearing to the Court Clerk who attends the Commission with the Court papers. This is required since these Clerks attend the Commission in addition to their duties and outside their normal working hours.
11. The Commissioner is not to permit any application for adjournment on the dates fixed, except where absolutely unavoidable.
12. Considering the fact that P.W.2 is a senior citizen, aged about 68 years and a resident of Salem, Tamil Nadu, the recording of his cross-examination may be conducted through video-conferencing. The defendants have no objection for the same.
13. The Court Commissioner shall submit her report within six weeks from today.
14. List on 22.03.2024 for further directions.

**(MANISH PITALE, J.)**