

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

TESTAMENTARY SUIT NO. 13 OF 2006
IN
TESTAMENTARY PETITION NO. 803 OF 2006

Kavita Ramdas Kadam

...Plaintiff

Vs.

Mr. Pratap Janardanrao Salunke

...Defendant

Mr. S.S. Joshi for Plaintiff

None for Defendant

CORAM: V.M. KANADE J.
DATED 24TH SEPTEMBER, 2008

P.C.

1. Heard the learned Counsel appearing on behalf of the Plaintiffs. None appears on behalf of the Defendant. Perused the plaint and the written statement. It is alleged by the Defendant that the suit property is an ancestral property and the father of the deceased was a tenant in respect of that property. It is further alleged that the Will dated 3^d December, 1999 is a sham and bogus document. In view of the averments made in the written statement, the initial burden is on the Defendant to establish that the property is in question, was not self acquired property of the deceased and further to

establish that the Will is a sham and bogus document.

The following issues were framed:

1. Whether the Defendant proves that the property at Shop No.15 & two rooms, B.P.T. Building, Milet Bunder Road, Mumbai – 400 009 was not a self acquired property of the deceased and that the father of the Deceased was a tenant of BPT in respect of that property?
2. Whether the Defendant proves that the property of Survey No.62, Hissa No.A-2 with house & 70 mango trees & 35 Coconut trees at Post Korle, Taluka Lanja, District Ratnagiri, Maharashtra was not a self acquired property of the Deceased & that the same was acquired by the Deceased from the ancestral funds of the family?
3. Whether the Defendant proves that the Will dated 3rd December, 1999 is a sham and bogus document?
4. Whether the Defendant proves that the funeral expenses of the Deceased was borne by him?
5. Whether the Defendant proves that the valuation of Rs.9,38,360/- made by the plaintiff is incorrect?

2. Since the initial burden is on the Defendant, the Defendant to file their affidavit of evidence and affidavit of documents within four weeks thereafter. S.O. for eight weeks.

V.M. KANADE J.