

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***ORDINARY ORIGINAL CIVIL JURISDICTION*****MISC. PETITION NO. 20 OF 2003****IN****TESTAMENTARY PETITION NO.1014 OF 1999****Mrs.Madhu Ramchand Lund** **Petitioner****VERSUS****Chandulal Bhagwandas Hinduja & Ors.** **Respondents**

Mr.A.Wachasundar, i/b. Meghraj & Associates for the Petitioner.

Mr.N.Amin for Respondent nos. 1 and 2.

Ms.Sunanda Kumbhat, a/w. Ms.Gauri Chhabriya for Respondent no.3.

Ms.S.Shaikh, i/b. S.K.Srivastav & Co. for Respondent no.4.

CORAM : R.D. DHANUKA, J.**DATED : 9th JULY, 2014****WITNESS IS ON SOLEMN AFFIRMATION :-**

Name : Vandana Jaysing (PW-6)

Age : 62 years

Occupation : Advocate

Address : 208, Jaldarshan, Ruia Park,
Juhu, Mumbai.**(Witness is shown affidavit in lieu of examination in chief dated 6th June, 2014).**

I identify my signature on the affidavit. I have drafted this affidavit. What is stated in the affidavit is true and correct.

2. Affidavit of evidence dated 6th June, 2014 is taken on record as affidavit under Order 18 Rule 4 of the Code of Civil Procedure, 1908.
3. In so far as first document i.e. certificate issued by Juhu Police station dated 24th June, 2003 is concerned, the witness has produced the original thereof for perusal of the court. Inspection of the original is offered to all the parties present in court. After verifying the original, the original certificate is returned to the witness with a direction to produce the same as and when required. Certificate issued by the police station is marked as **Ex. 'PW-6 (1)'**.
4. In so far as declaration dated 3rd May, 2001 which was initially marked as X-19 by the learned court commissioner is concerned, the witness has produced the original thereof for perusal of the court. In view of the deposition of the witness made in paragraph (7) of the affidavit, declaration is marked as **Ex. 'PW-6 (2)'** subject to the rights of the other parties to cross examine the witness.
5. In so far as copy of the declaration dated 3rd May, 2001 alleged to have been signed by Mrs. Phooli Manoharlal Jumanji is concerned, learned counsel appearing for the respondents submits that the original of such declaration is filed in court. Since the original of such declaration is not available immediately for perusal of the court, at this stage and in view of the deposition made by the witness that she has identified the signature thereof on the basis of the photocopies made available to the witness, the document is taken on record and is marked **Ex. 'PW-6 (3)'** subject to the rights of the other parties to cross examine the witness.
6. Examination in chief of the witness is concluded.

CROSS EXAMINATION BY THE LEARNED COUNSEL APPEARING FOR THE PETITIONER :-

It is correct that I had appeared for respondent no.3, in court proceedings but I cannot say when and in which year I had appeared for respondent no.3. It is correct that in this proceedings I had filed affidavit in reply on behalf of respondent no.3. The said affidavit was drafted by me. I do not remember whether the petitioner has filed any affidavit in these proceedings contending that she never appeared before me for attestation of any affidavit.

(Witness is shown paragraph (17) of the affidavit in reply dated 28th August, 2003).

2. It is correct that in the said affidavit the petitioner has alleged that she never appeared before me for attestation of any affidavit.

(Witness is shown letter dated 16th July, 2003 [Ex.P-13])

3. I cannot say whether this letter was received by me asking for inspection of the notary register. Copy of letter shown to me does not show any acknowledgement of such letter by me. In the inspection meeting, the petitioner had not asked for inspection of the notary register. It is not correct that the inspection of the notary register was called in the meeting. It is correct that under the Notaries Act, all the notaries are required to maintain receipts of the payment received from the clients under Section 11(9) of the Notaries Act.

4. I used to keep the receipts also alongwith the notary register which are lost alongwith notary register. It is correct that I have not stated in my affidavit in lieu of examination in chief that receipts are also lost alongwith the notary register.

Cross examination is not concluded.

5. S.O. to 24th July, 2014 at 11.00 a.m.

[R.D. DHANUKA, J.]