

HARSHADA H. SAWANT
(P.A.)

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

TESTAMENTARY SUIT NO.15 OF 2024

Ravi Thanjukutty Tharakkal @ Ravi Tharakkal .. Plaintiff

Versus

Vasanti Shashidhar Anchan .. Defendant

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- Mr. Siddhesh Pilankar, Advocate for Plaintiff.
- Mr. Pankaj S. Shah a/w. Mr. Manoj Kumar, Advocates i/by Ms. Trupti Narkar for Defendant.

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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 18, 2025

P.C.:

1. Heard Mr. Pilankar, learned Advocate for Plaintiff and Mr. Shah, learned Advocate for Defendant.

2. Pursuant to the order dated 17.09.2025, Mr. Pilankar files affidavit of documents, *inter alia*, containing a singular copy of document which is the original Will and testament of the deceased. It is a registered Will and it is filed alongwith registration receipts thereof. Regarding Affidavit of documents, Will is the only document relied upon by the Plaintiff. He has also filed the Affidavit-in-lieu of examination-in-chief of Plaintiff's 3 witnesses as under which are taken on record:-

Sr.Nos.	Name of witnesses	Date of affidavit-in-lieu of examination-in-chief
1.	Ravi Thanjukutty Tharakkal alias Ravi Tharkkal S/o. Late T. S. Thanjukutty	27.01.2025
2	Rahul Sunil Pednekar	27.01.2025
3	Prakash Shankar Pednekar	27.01.2025

3. Mr. Pilankar would submit that both the attesting witnesses are present in Court and this Court be pleased to take their imprimatur and say for the purpose of confirming and proving the last Will and testament of the deceased. He would submit that for the purpose of their cross examination, this Court may pass appropriate order for appointment of Court Commissioner. In that regard he has placed on record their two affidavits-in-lieu of examination-in-chief of both the attesting witnesses.

4. The affidavit-in-lieu of examination-in-chief of Plaintiff Witness No. 1 being the Plaintiff himself and Executor, and the affidavits in lieu of examination-in-chief of Plaintiff Witness Nos. 2 and 3, being the attesting witness to the Will have been duly filed.

5. The original Will and testament of the deceased running into 25 pages (marked with pencil) is taken on record and marked as **Exhibit 'P-1'** .

6. The first attesting witness is Mr. Prakash Shankar Pednekar and second attesting witness is Mr. Rahul Sunil Pednekar.

7. Mr. Prakash Shankar Pednekar (PW-2) is present before the Court. Original Will is shown to him. On solemn affirmation he confirms his signature on his Affidavit dated 12.10.2022 and confirms the contents thereof. After going through the Original of Will, he states that he has appended his signature as attesting witness on the last page of the Will in the execution clause. He identifies his name and signature appended in front of his name and the address which is stated therein below as his. He adds that the Testator has appended his signature on each page of the Will and the execution clause below the date alongwith the thumb impression in his presence. He states that he appended his signature on the Will thereafter on the Will in presence of the Testator and the 2nd attesting witness. He adds that after he signed as attesting witness the second attesting witness also signed the Will in presence of Testator and himself. Examination-in-chief of PW-1 is completed.

8. The second attesting witness Mr. Rahul Sunil Pednekar (PW-3) is present before the Court. Original Will is shown to him. After going through the Original of Will, he states that he has appended his signature as attesting witness on the last page of the Will where the execution clause is appearing. He identifies his name and signature appended in front of his name and the address which is stated therein below as his. He adds that the Testator appended his signature on each page of the Will and the execution clause below the date alongwith the

thumb impression in his presence. He states that PW-1 appended his signature on the Will before him on the Will in their presence.

9. For the purpose of cross-examination by consent of both the parties, Ms. Kainaz Irani, Advocate and Counsel practicing in this Court (Mobile No : 9819301839, email id : advkainaz@gmail.com) stands appointed as Court Commissioner to complete the cross-examination of the two attesting witnesses in accordance with law within a time bound program and preferably before the next adjourned date as requested by the parties.

10. Both the learned Advocates after taking instructions have consented for the exercise of recording the cross-examination of the attesting witnesses by the Court appointed Commissioner as directed above and assured the Court that they / parties shall co-operate with the Court Commissioner and not seek any adjournments unless necessary.

11. The Court Commissioner is requested to record the cross-examination of the Plaintiff's 2 attesting witnesses. If Defendant is desirous on relying on documents which are required to be exhibited, then liberty to apply.

12. The Commissioner is at liberty to exercise discretion under order XVIII, Rule 4(4) of the Code of Civil Procedure, 1908 to note the demeanor of the witnesses where necessary.

13. All witness action shall be conducted strictly in question and answer form considering that it is a testamentary dispute between the parties.

14. The Commissioner will also be at liberty to decide / direct whether 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.

15. Liberty to the parties as also to the Commissioner to apply in case of any difficulty.

16. All costs of the commission / Commissioner shall be borne by the Plaintiff. Mr. Pilankar agrees to the same.

17. Parties shall also pay costs of Rs. 500/- per hearing to the Court Clerk who attends the Commission with Court Papers outside the Court premises if so fixed by parties as per convenience. This is required since these clerks attend the commission in addition to their regular duties and outside their normal working hours. In the alternative, Registry is directed to make available Court Room premises after Court hours to the parties for recording of commission.

18. The Commissioner is not to permit any applications for adjournment on dates previously fixed except where absolutely

unavoidable. Counsel's inconvenience or unavailability does not constitute such unavoidability.

19. Writ of commission stands dispensed with.

20. The original copy of the Will shall be preserved by the Registry. As and when it will be called for the Testamentary Department shall arrange for a Clerk to carry the original copy of the Will and the Court papers of the matter to the venue which shall be coordinated and informed by the Advocate for the Plaintiff.

21. The Plaintiff desires to lead his evidence. The Plaintiff is present in Court.

22. Mr. Pilankar submits that affidavits-in-lieu of examination-in-chief alongwith affidavit of documents shall be filed within a period of three weeks by him from today. The above cross-examination of the two attesting witnesses is directed to be completed before the next adjourned date.

23. Stand over to 18th February 2026 for filing the Commissioner's report and for further orders for Plaintiff's evidence.

24. Liberty to apply.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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by HARSHADA
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Date: 2025.12.26
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