

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

**TESTAMENTARY SUIT NO.85 OF 2015
in
TESTAMENTARY PETITION NO.320 OF 2015
along with
NOTICE OF MOTION NO.84 OF 2015**

Madhukar Kashinath Tupe .. Deceased
Sainath Madhukar Tupe .. Plaintiff/Petitioner
Vs.
Mr.Arun Madhukar Tupe & Ors. .. Defendants/Respondents

**WITH
TESTAMENTARY SUIT NO.36 OF 2014
in
TESTAMENTARY PETITION NO.1581 OF 2013**

Madhukar Kashinath Tupe .. Deceased
Mr.Arun Madhukar Tupe & Ors. .. Plaintiffs/Petitioners
Vs.
Sainath Madhukar Tupe .. Defendant/Respondent

Mr.Uday G. Jaguste for the plaintiff in TS 85 of 2015 and for the defendants in TS 1581 of 2013.

Mr.G.K. Vora for the defendant in TS 85 of 2015 and for the plaintiffs in TS 1581 of 2013.

CORAM : R.D. DHANUKA, J.

DATE : 29th June 2017

P.C. :

. The matter was on board today under the caption of 'Admission and Denial of the documents.'

2. On 17th August 2015, this Court has marked certain documents as exhibits. The matter was adjourned for marking the Will sought to be propounded by the plaintiff.

3. Mr.Vora, learned counsel for the defendant in Testamentary Suit No.85 of 2015 states that in the compilation of documents filed by the plaintiff, a copy of the alleged Will is not filed.

4. Learned counsel for the plaintiff, on the other hand, submits that according to the plaintiff, the Will is annexed at Exhibit 'B" to the plaint. He submits that though the same is described as 'Nomination Form,' the same is the last Will and Testament of the deceased testator. He submits that the third office copy of this alleged Will is deposited with the Prothonotary and Senior Master and that the same would be produced through the witnesses proposed to be examined by the plaintiff.

5. The plaintiff in Testamentary Suit No.85 of 2015 has already filed his own affidavit in lieu of examination-in-chief dated 5th August 2015. Learned counsel appearing for the plaintiff seeks liberty to file additional affidavit in lieu of examination-in-chief along with one document.

6. The plaintiff is permitted to file additional affidavit in lieu of examination-in-chief along with document within two weeks from today and shall serve a copy thereof upon the defendants' advocate simultaneously.

7. Place the matter on board for 'marking of documents' proposed to be relied upon by the plaintiff along with additional affidavit in lieu of examination-in-chief on 17th July 2017.

8. Learned counsel for the plaintiff further submits that Will of the deceased testator would also be produced on the next date. This

Court will consider whether these documents will be marked as exhibits or not.

R.D. DHANUKA, J.