

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

**TESTAMENTARY SUIT NO.35 of 2008
IN
TESTAMENTARY PETITION NO.100 OF 2008**

Ashokan Balkrishna KundaiPetitioner

V/s.

Suresh Prabhakar Karippararespondent

Mr.Ashutosh Gole for the plaintiff.

Ms.Purnima G.Bhatia for the respondent.

**CORAM : K.R.SHRIRAM,J
DATE : 16.1.2017**

P.C.:-

1 Mr.Ashutosh Gole appearing for the petitioner states that petitioner has filed evidence of 3 witnesses i.e., the petitioner who is the propounder of the Will and the 2 attesting witnesses. The counsel states that the petitioner is present in court and requests his evidence be taken on record. The petitioner Ashokan Balkrishna Kundal (PW-1) is present in court and is administered oath. On oath, PW-1 confirms having affirmed an affidavit dated 17.4.2015 and also identifies his signature. The same is taken on record and marked Exh.P1/1.

2 The petitioner has also filed 3 documents. The serial numbers given below relate to the index to the compilation of documents.

Serial No.1 – marked as Exh.P1/2.

Serial No.2 – marked X1 for identification.

Serial No.3 – marked as Exh.P1/3.

3 Ms.Asha Bhambhawani an advocate practicing in this court is appointed as commissioner to record evidence in this matter. The fees, administrative expenses, typing charges, venue charges if any, to be shared equally between the parties. Costs will be cost in the suit.

The Commissioner to endeavor to complete recording of evidence of PW-1 by 31st March, 2017. The Commissioner to fix minimum two/three dates per session for cross examination of PW-1. If the parties do not respond promptly within 48 hours of receiving a communication from the Commissioner suggesting the subsequent dates, the Commissioner to go ahead and fix the dates convenient to the Commissioner and the parties shall make themselves available at the time and dates fixed by the Commissioner. If the plaintiffs or the witness does not remain present, the Commissioner should close the evidence of PW-1 and if the defendants do not remain present to cross examine the witness, the defendants cross examination should be treated closed as no cross. Once the dates are fixed, the Commissioner not to grant adjournment on any ground whatsoever unless the situation is so grave that it warrants an adjournment and

for reasons recorded.

4 Liberty to apply.

(K.R.SHRIRAM,J)