

Ajay

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

**TESTAMENTARY SUIT NO. 48 OF 2023
IN
TESTAMENTARY PETITION NO. 550 OF 2022**

Vimla Mafatlal Choksi nee
Vimlaben Choksi nee
Vimla Chaukshi .. Deceased

Geeta Mukesh Shah .. Plaintiff
Versus
Rashmi Mafatlal Choksi .. Defendant

**WITH
TESTAMENTARY SUIT NO. 50 OF 2023
IN
TESTAMENTARY PETITION NO. 551 OF 2022**

Shailesh Mafatlal Chokshi .. Deceased

Geeta Mukesh Shah .. Plaintiff
Versus
Rashmi Mafatlal Choksi .. Defendant

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- Mr. Jeyhaan Carnac, Advocate i/by Mulla and Mulla for Plaintiff.
 - Mr. Piyush Shah a/w. Mr. A.K. Singh for Defendant.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 29, 2026.

P.C.:

1. Heard Mr. Carnac, learned Advocate for Plaintiff and Mr. Shah, learned Advocate for Defendant.
2. Learned Advocates for the parties are directed to complete discovery and inspection of the List of Documents (LOD) relied upon

by Plaintiff in Testamentary Suit No.48 of 2023 and in Testamentary Suit No.50 of 2023.

3. Learned Advocate appearing for Plaintiff persuades the Court that today witnesses including attesting witnesses are all present and due to their advanced age and difficulties faced by them, the Will be marked as Exhibit by taking their respective Evidence Affidavits on record so that they are relieved from attending Court on next date and Court can then proceed and mark the remaining documents and thereafter refer both the cases to Court Commissioner for their cross examination. After interacting with the witnesses present, I am inclined to agree with Mr. Carnac's request to see that the witnesses who are old including Plaintiff do not face the trouble to come to Court again.

4. Both cases will be taken up for marking of further documents as Exhibits on the next adjourned date which shall be noted by the learned Advocates appearing for the respective parties. Both parties agree that marking of documents as Exhibits be done in seriatim in both Suit proceedings so that the cross examination of 3 witnesses who are common in both Suits is held before Commissioner together. Parties agree on this arrangement.

5. On going through the compilation of documents, the parties are intimated that in case of any inadequacies therein with regard to filing of Section 65B certificate or Additional Affidavit required to be

filed under the Banker's Books of Evidence Act, 1891 since Plaintiff has referred to and relied upon Bank pass books and Bank statements, the same shall be permitted by the Court to be filed additionally on the next date.

6. Needless to state that if such supporting evidence and appropriate documents are not filed, the subject documents in the LOD in both Suits will be marked as Articles for identification with leave and liberty to Plaintiff to prove them by leading secondary evidence in accordance with law, if so desired.

7. Mr. Carnac, learned Advocate for Plaintiff informs Court that in Testamentary Suit No.48 of 2023, Plaintiff desires to lead evidence of attesting witness namely Ms. Pravina B. Shah, Plaintiff herself Ms. Geeta Mukesh Shah and evidence of a Handwriting Expert namely Mr. Nirav Visa. Their respective Affidavits in-lieu-of examination-in-chief are filed in the Court before me today. Today, all above 3 witnesses are present before me.

8. Attesting witness namely Ms. Pravina B. Shah has stepped into the witness box and is on solemn affirmation. Her examination in chief is recorded by Court herein today. She is nomenclatured as 'PW-1'. She is shown her Affidavit-in-lieu of examination-in-chief dated 24.11.2025. She confirms her signature thereon and its contents. She is also shown the original Will of deceased dated 28.11.2005 in

Testamentary Suit No.48 of 2023 and the original Will dated 01.08.2018 of deceased in Testamentary Suit No.50 of 2023. It is seen that the Will of Vimla Choksi which is inscribed on the letterhead of 'Shailesh M. Chokshi' which is dated 28.11.2005. On examination of the said document, the same is an original Will. Learned Advocate for Defendant has taken inspection of the said Will in Court and does not raise any objection for its marking, save and except to submit that all contentions to cross-examine the attesting witness on her deposition on the execution be kept open. To that extent the request by the learned Advocate for Defendant stands accepted. The Will of Vimla Choksi dated 28.11.2005 is marked as Exhibit 'P-1' under Section 62 read with Section 64 of Indian Evidence Act, 1872. Right of Defendant to cross-examine the attesting witness is kept open before Court Commissioner PW1 is discharged as her Examination-in-Chief is closed. Cross to be proceeded before Court Commissioner by consent of parties after all documents are marked.

9. The Will in the case of Shailesh Chokshi is inscribed on the letterhead of 'Anshej Diamonds' which is dated 01.08.2018. PW-1 is shown her Affidavit-in-lieu of examination-in-chief dated 24.11.2025. PW-1 confirms her signature thereon and its contents. She is shown the original Will. It is also an original. Hence it is marked as Exhibit 'P-2'. Learned Advocate for Defendant has taken inspection of the said Will in Court and does not raise any objection save and except to submit

that all contentions to cross-examine the attesting witness on her deposition regarding the Will be kept open. To that extent the request by learned Advocate for Defendant stands accepted. She has identified her signature as attesting witness on both the above Wills having been appended on the face of both Wills and affirms that the Testator having executed both the Wills in her presence as also the second attesting witness having done so. Right of Defendant to cross-examine the attesting witness is kept open before Court Commissioner PW-1 is discharged as her Examination-in-Chief in both Suits is closed. Her cross to proceed before the Court Commissioner by consent of both parties after all documents are marked as Exhibits. Both the Wills stand identified and marked as Exhibits 'P-1' and 'P-2' in evidence.

10. PW-1 Attesting witness stands discharged in so far as her examination-in-chief is concerned in both the Testamentary Suits.

11. Mr. Carnac, learned Advocate next places on record the Affidavit in evidence in examination-in-chief of Geeta Shah, Plaintiff herself who desires to lead evidence in both Suit proceedings. She is nomenclatured as '**PW-2**'. PW-2 is a witness of fact. She is present in Court. She has stepped into the witness box. She is on solemn affirmation. Her examination-in-chief is recorded in Court herein today. She is shown her two Affidavits-in-lieu of evidence which are both dated 24.11.2025 and filed in Testamentary Suit No.48 of 2023

and Testamentary Suit No.50 of 2023 separately. She affirms execution and contents of the both her Affidavits-in-lieu of evidence in the two Suits, and its contents. Her examination-in-chief is closed by Mr. Carnac and she shall stand discharged to that extent. Cross-examination of this witness PW-2 in both the Suits shall be commenced and completed before the Court Commissioner by consent of both parties after marking of the remaining documents in accordance with law.

12. Third witness of the Plaintiff is Mr. Nirav Vasa. He is nomenclatured as 'PW-3'. He is a Handwriting Expert who is deposing at the request of Plaintiff in both the Suit proceedings. Both his Affidavits-in-lieu of Examination-in-Chief are filed separately and are dated 17.12.2025. He has prepared his Expert Reports which are part of the LOD. Today, Mr. Vasa has appeared on Video Conferencing and confirms execution and contents of both his Affidavits and Reports which are taken on record. He confirms his signature on the two Reports dated 09.12.2025 and 10.12.2025 filed in both cases and its contents. Since he is an Expert witness under Section 46 of the Indian Evidence Act, 1872, in that view of the matter, PW-3 is granted leave and liberty to file any further additional Affidavit-in-lieu of examination, if he so desires to file after evidence of the witness of fact is completed by Plaintiff. Needless to state that if any additional Affidavit is filed, the same shall be placed before the Court after

serving and giving due notice to other side for taking it on record and in the event if he desires to refer to and rely upon any additional documents, the same shall be considered by Court in accordance with law when produced.

13. Fourth witness of the Plaintiff is Dr. Rajesh Gala. He is nomenclatured as 'PW-4'. PW-4 is a witness of fact in Suit No.50 of 2023 only. He is present before the Court on Video Conferencing. By consent his examination-in-chief is recorded on Video Conferencing. He has stepped into the witness box. He is on solemn affirmation. His attention is drawn to his Affidavit which is dated 06.11.2025 and filed in Testamentary Suit No.50 of 2023 today. He affirms execution of his said Affidavit as Attesting Witness and its contents. His examination-in-chief is closed by Mr. Carnac and he shall stand discharged to that extent. Cross-examination of PW-4 shall be commenced and completed before the Court Commissioner by consent of parties in seriatim after recording of the evidence of PW-2 who is also a witness of fact in Suit No.50 of 2023.

14. Accordingly all the four witnesses stand discharged today after the above exercise of recording their examination-in-chief. Their examination-in-chief stands duly completed by Court today. The original Wills in both the Suits stand duly marked as Exhibit P-1 and P-2 on the basis of the evidence given by the attesting witness to both the

Wills as above.

15. By consent of the parties, list the matter on Board on 4th May 2026 for the purpose of marking rest of the documents in the LOD in both Suits at the request of parties. Parties shall take inspection of the documents. Save and except the original Wills which are marked as Exhibits P1 and P2 by the Court, which are retained by the Court, rest of the documents are returned back to Mr. Carnac.

16. Both learned Advocates are directed to complete discovery and inspection and ensure that they appear with their appropriate comments and remarks for marking of the documents on the next adjourned date.

17. Stand over to 4th May 2026 at 5:00 p.m..

[MILIND N. JADHAV, J.]

Ajay

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signed by AJAY
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