

Ajay

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

**TESTAMENTARY SUIT NO. 72 OF 2023**  
**IN**  
**TESTAMENTARY PETITION NO. 1293 OF 2020**

Wajid Sharafat Ali Khan @  
Wajid Sharafat Khan .. Deceased

Razia Sharafat Ali Khan .. Plaintiff

**Versus**

Kamalrukh Wajid Khan and Ors. .. Defendants

- .....
- Ms. Heena Siddique, Advocate i/by Ms. Pratibha Banqera for Plaintiff.
  - Ms. Kaizeen Mistry, Advocate for Defendants

.....

**CORAM : MILIND N. JADHAV, J.**

**DATE : NOVEMBER 19, 2025.**

**P.C.:**

**1.** Heard Ms. Siddique, learned Advocate for Plaintiff and Ms. Mistry, learned Advocate for Defendants.

**2.** The Stage of Testamentary Suit is for framing of issues. After hearing the learned Advocates at the bar and perusing the draft issues, the following issues are framed in the Suit for adjudication:-

- (i) Whether the Plaintiff proves that Hibanama dated 21.08.2012 was duly and validly executed and attested in accordance with law as the Last Will and Testament of the deceased?

- (ii) Whether the Plaintiff proves that the deceased was of sound and disposing state of mind at the time of execution of the said Hibanama?
- (iii) Whether the Plaintiff proves that the Hibanama dated 26.05.2020 satisfies the essential requirements of a valid Hiba under the Mohammedan Law?
- (iv) Whether the Defendants prove that the said Hibanama is forged, fabricated, fraudulent and/or that it was executed by the deceased under any undue influence, coercion or pressure?
- (v) Whether the Plaintiff proves that the Hibanama dated 26.05.2020 supersedes, revokes or overrides the Will dated 21.08.2012?
- (vi) Whether the Plaintiff is entitled to Letters of Administration in respect of the estate of the deceased on the basis of the Hibanama dated 26.05.2020?
- (vii) What reliefs / orders?

**3.** Advocate for Plaintiff is directed to file Affidavit of Documents alongwith List of Witnesses by the next date. A copy of Affidavit of Documents shall be served in advance on Advocate for Defendants within a period of four (4) weeks from today. Advocate for

Defendants shall take inspection of original documents in the office of Advocate for Plaintiff within a period of two (2) weeks thereafter. The Affidavit-in-lieu of examination-in-chief of Plaintiff's witnesses shall be served on Advocate for Defendants two weeks before the next date.

**4.** Admission and Denial statement of documents alongwith reasons shall be conveyed by Advocate for Defendants to Advocate for Plaintiff within a period of one (1) week thereafter.

**5.** On the next adjourned date, Affidavits of Plaintiff's witnesses shall be filed in Court alongwith the Affidavit of Documents with originals alongwith Admission and Denial of documents by Defendants for the purpose of exhibiting the documents in evidence and after hearing the parties.

**6.** Today after hearing the parties, parties are attempting a reconciliation and settlement as informed by the learned Advocates, without prejudice to the rights and contentions of the parties, if possible.

**7.** Hence, by consent of the parties, Mr. Shamim Dalvi, learned Advocate / Counsel practicing in this Court (Landline No. 022 22045434) is appointed as Mediator to resolve the disputes between parties.

- 8.** Parties to approach the learned Mediator to fix the schedule of dates of meeting with the parties.
- 9.** Parties shall extend full co-operation during mediation.
- 10.** Both parties agree to bear the fees / costs of mediation / Mediator's fees / charges equally.
- 11.** Advocate for Plaintiff shall co-ordinate with the learned Mediator as well as respective parties / Advocate for Defendants for the purpose of arranging the mediation meetings.
- 12.** Learned Mediator is requested by this Court to submit the report by 14<sup>th</sup> January 2026.
- 13.** The learned Mediator is permitted by this Court to call for the documents and parties are directed to produce the same before the learned Mediator.
- 14.** Place the present Testamentary Suit alongwith Testamentary Suit No.58 of 2025 on the next adjourned date for further orders.
- 15.** Stand over to **14<sup>th</sup> January 2026.**

[ MILIND N. JADHAV, J. ]

Ajay

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by AJAY  
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