

Sharayu.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY SUIT NO. 89 OF 2014
IN
TESTAMENTARY PETITION NO. 480 OF 2014**

Shrikrishnanand Arvind Velinker ...Plaintiff
Versus
Kamalini Arvind Velinker & Ors. ...Defendants

Mr. A.P. Pai, *a/w Ms. Bina B. Pai i/b N. Thakkar for the Plaintiff.*
Mr. Ramesh Doshi, *a/w Mr. Gaurang Mehta, Ms. Jui Patil, i/b D. Mehta, for the Defendants.*

CORAM: G.S. PATEL, J
DATED: 28th August 2015

PC:-

1. The Suit is listed for marking the Plaintiff's documents.
2. The documents at Sr.Nos. 1, 4, 5, 6, 7, 8, and 9 of the compilation annexed to the Plaintiff's Affidavit in lieu of Examination-in-Chief are admitted. These are taken on record and marked in evidence as **Exh.P1**, **Exh.P2**, **Exh.P3**, **Exh.P4**, **Exh.P5**, **Exh.P6** (subject to proof of correctness of contents) and **Exh.P7** respectively.

3. The document at Sr.No. 2 is a reference to the Will of which Probate is sought. The Evidence Affidavit of the surviving attesting witness will be necessary before this document can be marked. The attesting witness is unavailable in Court today. The marking of that document is therefore, deferred for the present.

4. The document at Sr.No. 3 is a Medical Certificate. It is marked as “X1” for identification. It can only be proved through the examination of the doctor who issued this certificate.

5. The documents at Sr.Nos. 10 to 17 are customer copies of various funds Transfer Request Forms put in by the Plaintiffs. These are attested to *inter alia* in paragraph 20 of his Evidence Affidavit. The Plaintiff has identified these documents and his signature and handwriting on them. In view of the testimony of the Plaintiff, the documents at Sr.No. 10 to 17 are taken on record and marked in evidence as **Exh.P8 (Colly)**.

6. The documents at Sr.No. 18 to 30 are printouts of e-mails. Both sides request for some time to consider the legal position especially Section 65B of the Indian Evidence Act 1872 and the effect of the decisions of the Supreme Court in *Anvar P V v P K Basheer*;¹ *Tomaso Bruno v State of Uttar Pradesh*;² *State (NCT of Delhi) v Navjot Sandhu*;³ and *Mohd Ajmal Amir Kasab v State of Maharashtra*.⁴ The marking of these documents is deferred for the present.

¹ (2014) 10 SCC 473

² (2015) 7 SCC 178

³ (2005) 11 SCC 600

⁴ (2012) 9 SCC 1

7. The documents at Sr.No.31, 32, 33 and 34 cannot be proved through the present witness. They are marked as “X2”, “X3”, “X4 (colly.)” and “X5 (colly.)” for identification.

8. The Plaintiff is personally present in Court today. In view of the request made in relation to the printouts of emails, he need not remain present on the next occasions when this aspect of the matter is taken up.

9. List the matter on 22nd September 2015 for admissibility of remaining documents.

(G. S. PATEL, J.)