

Shephali

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

APPEAL NO. 571 OF 2009

IN

TESTAMENTARY SUIT NO. 21 OF 2004

IN

TESTAMENTARY PETITION NO. 336 OF 2004

WITH

NOTICE OF MOTION NO. 4261 OF 2009

IN

APPEAL NO. 571 OF 2009

Kumudini Mayur & Anr

...Appellants

Versus

Meena Rashmi Mayur

...Respondent

SHEPHALI
SANJAY
MORMARE

Digitally signed by
SHEPHALI SANJAY
MORMARE
Date: 2022.09.22
15:30:22 +0530

None for the parties.

**CORAM G.S. Patel &
 Gauri Godse, JJ.**

DATED: 21st September 2022

PC:-

1. This Appeal is listed for appropriate directions today at our instance since we propose to give all appeals in testamentary matters the maximum possible priority because estate assets have been

locked up on account of these litigations for unfortunately long periods of time.

2. If the Appeal has been admitted, certain directions will be necessary to prepare the Appeals for hearing and final disposal. If the Appeal is not admitted, it will be stand admitted by this order.

3. Directions are necessary because unlike the record of Trial Courts from the district judiciary that come up as First Appeals, on the Original Side of this High Court, the Trial Court record is not maintained in a consolidated manner. Exhibits marked in evidence and documents for identification are typically preserved separately in the Registry from the pleadings. There is also no sequential pagination that is maintained.

4. We propose to dispose of the appeal on the basis of a convenience compilation of the trial court's record. Hence the following directions.

- (a) The entire Trial Court record will need to be brought to Court at the time when the Appeal is scheduled or listed for final hearing.
- (b) While we expect the entire original trial court record, including the evidence and the original Will (if any) to be available to us in Court, for convenience we direct the Appellant to file a compilation of the Trial Court record in the usual form, i.e. —

- (i) Parties and Advocates will coordinate with the Registry of this Court to re-arrange the record in a proper fashion with running pagination and an index in the manner indicated below.
- (ii) Once the record is arranged, it is to be digitized by the registry. Soft copies are to be made available to the Advocates of both sides on request and without charge.

ARRANGEMENT OF RECORD

— Separate file/folder for Order copies

1 Volume A

- (a) Complaint
- (b) Written Statement
- (c) Counter Claim (if any)
- (d) WS to Counter-claim (if any)
- (d) Issues framed

2 Volume B

- (a) Affidavit of Evidence of Plaintiff and witnesses in serial order
- (b) Cross Examination of Plaintiff and re-examination, if any
- (c) Affidavit of Evidence of Defendant
- (d) Cross Examination of Defendant

(each Evidence Affidavit to be followed by Cross Examination and Re-Examination)

3 Volume C

- (a) Plaintiff's Documents in Evidence
- (b) Defendant's Documents in Evidence

PLEASE MARK EXHIBIT NOS ON
EACH DOCUMENT

4 Volume D

- (a) Documents marked for identification with identification no
- (b) Misc documents, if any

MAINTAIN RUNNING PAGINATION
THROUGHOUT. DETAILED INDEX
REQUIRED.

5. In addition, we permit both sides to prepare short notes of written submissions which will necessarily be co-related to the continuous paging of this convenience compilation.

6. The convenience compilation will be prepared by 14th November 2022. A copy will be provided to the Advocates for the Respondents.

7. The convenience compilation is to be filed in the Registry by 14th November 2022. A soft copy should also be provided. If that is

not possible for any reasons, the registry will have the convenience compilation scanned and made ready for e-hearing.

8. We give both sides time until 21st November 2022 to prepare their notes of written submissions. Soft copies are to be made available to the Court.

9. Subject to the roster and any change in that Roster, the Appeal will be listed on the weekly board for the final hearing from the week of 28th November 2022 onwards to be taken up at 2.30 pm on such scheduled date as the Bench will separately notify.

10. A copy of this order is to be sent to Mrs PP Bhaidkar, Master & Assistant Prothonotary (Judicial). She is to list the matters before her on 21st November 2022 for compliance.

(Gauri Godse, J)

(G. S. Patel, J)