

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

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APPEAL (L) NO. 24173 OF 2024

IN

TESTAMENTARY PETITION NO.3196 OF 2023

Preeti Sharma Menon ... Appellant

Versus

Jagdish Chander Sampat Lal Sharma ... Respondent

Mr. Asadullah Shaikh a/w Ms. Jyoti Badgujar, Aatif Pathan
and S.U. Lakdawala for the appellant.

CORAM : M.S. Sonak &
Jitendra Jain, JJ.

DATED : 4 July 2025

P. C.:-

1. Heard learned counsel for the appellant.
2. Admit.
3. Expedited.
4. Learned counsel for the appellant points out that the testamentary petition has been dismissed on the sole ground that co-testator being alive, the appellant/legatee could not have filed a testamentary petition seeking letters of administration.
5. Learned counsel now states that though this may not have been a correct ground for dismissal of the testamentary petition, without prejudice and considering the fact that the co-testator is now 85 years old, the appellant proposes to

apply for amendment of the testamentary petition now that this appeal is admitted. He submits that if this Court allows the amendment, then, perhaps the objection raised upon which the impugned order will not survive and the co-testator would then pursue the petition. He pointed out that the Court fees of Rs.75,000/- have already been paid in the matter and, therefore, it would not be equitable to require the co-testator, who is 85 years old, to file a fresh petition.

6. As and when any application for amendment is filed, the same would be considered in accordance with law.

(Jitendra Jain, J)

(M.S. Sonak, J)

This order is corrected as per speaking to the minutes of the order dated 8 July 2025.