

R.M. AMBERKAR
(Private Secretary)

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

TESTAMENTARY SUIT NO. 22 OF 1990
IN
TESTAMENTARY PETITION NO. 509 OF 1980
WITH
NOTICE OF MOTION (TESTAMENTARY) NO. 2 OF 2019
IN
TESTAMENTARY SUIT NO. 136 OF 2015

Yogesh C. Maniar .. Plaintiff
Versus
Bakul C. Mehta .. Defendant

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- Mr. Amit Tungare for Plaintiff
 - Dr. Bakul C. Mehta, Defendant in Person present

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CORAM : MILIND N. JADHAV, J.

DATE : JUNE 08, 2023

P.C.:

1. Heard Mr. Tungare, learned Advocate for Plaintiff and Dr. Bakul C. Mehta, Defendant who appears in person.

2. In this group of matters, there are two Suits namely Testamentary Suit Nos. 22 of 1990 and 136 of 2015 which are being heard together. T.S. No. 22 of 1990 seeks probate of the last Will dated 27.05.1987 of one Shantilal Chhaganlal Mehta whereas T.S. No. 136 of 2015 seeks probate of another Will propounded by Mr. Yogesh C. Maniar, the executor. The executor has expired in the interregnum and is now represented by his nephew Mr. Hiren Maniar. Both the Suits have been clubbed and directed to be heard together. Issues have been framed. The evidence of Dr. Bakul C. Mehta and one

another witness on his behalf has been completed before the Commissioner. The evidence of Mr. Hiren Maniar is to begin. However, before that Dr. Bakul Mehta who appears in person submitted that during his cross-examination and his witness's cross examination, certain documents were shown to them on which there were extensive cross-examination. He would submit that before the evidence of Mr. Hiren Maniar begins, those documents are required to be marked as exhibits. He would further submit that there are certain other documents which are required to be replaced with their certified copies. He would submit that in that regard he has filed Interim Application (L) No. 10615 of 2013 giving the list of such documents. Copy thereof is already given to Mr. Tungare, learned Advocate for Plaintiff.

3. Mr. Tungare would submit that he would obtain instructions and accordingly inform the Court on the next date as to which of those documents he is agreeable to marking them as exhibits and which documents he is opposing to mark as exhibits. Let the affidavit-in-reply be filed by the Respondents in the Interim Application (L) No. 10615 of 2013 within a period of one week from today. This Court shall hear the Interim Application on the next date.

4. Registry is directed to place the permission granted to Dr. Bakul C. Mehta who appears in person. If no such permission is

granted to him, then it shall be incumbent upon Dr. Mehta to apply for the same in accordance with law.

5. Mr. Tungare would submit that affidavit in lieu of examination in chief has already been filed on record along with compilation of documents. He would submit that one set of the said documents has already been given to Dr. Mehta. He would further inform the Court that originals are with him. On the next date, exercise of marking of documents shall also been undertaken by the Court. Mr. Tungare is directed by the Court to carry the originals with him so that this Court has no impediment in marking the originals and on being satisfied, if an application is made for seeking return of the originals, it will be considered in accordance with law after proper authenticated zerox copies are retained.

6. Dr. Mehta would submit that he has filed Notice of Motion seeking a direction for himself to be appointed as Administrator of the estate of the deceased on various grounds. At this stage, passing any order thereon may be detrimental to the rights of the parties. Hence, this Court has impressed upon the parties to continue and complete the witness action first. If the parties are agreeable, the Court shall conduct witness action in the Court itself.

7. Stand over to **15th June, 2023.**

[MILIND N. JADHAV, J.]