

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**TESTAMENTARY AND INTESTATE JURISDICTION**  
**TESTAMENTARY SUIT NO.228 OF 2024**  
**IN**  
**TESTAMENTARY PETITION NO.3189 OF 2019**

Nita Jain w/o Ravi Kran Jain & Anr ...Plaintiff

Vs.

Yasha Jain d/o Dharampal Jain ...Defendant

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Mr. Kalpesh Joshi a/w Mr. Narendra Devvansh and Mr. Dakshil Shah i/b Kalpesh Joshi Associates for Plaintiffs.

Mr. Rohit Pawaskar i/b Mr. Sandeep Waghmare for Defendant

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**CORAM : ARIF S. DOCTOR, J.**

**DATED : 22<sup>nd</sup> APRIL 2025**

**P.C. :**

**Oath is administered.**

1) PW-1: Kulwant Rai Jain (through VC)  
48, Chaturbhuj Road,  
Amritsar-143001, Punjab.

**Examination-in-chief of PW-1 on S.A.**

I have filed affidavit of evidence dated 25<sup>th</sup> March 2025. I have signed at the foot of the said affidavit and I identify my signature. I affirm that whatever stated in the said affidavit is true to my knowledge and correct. It was prepared under my instructions.

2) P.W.-2 : Balwant Rai Jain (Through VC)  
Age: 84 Years.  
BG-9, East, Shalimar Bagh,  
New Delhi-110088

**Examination-in-chief of PW-2 – on S.A.**

I have filed affidavit of evidence dated 25<sup>th</sup> March 2025. I have signed at the foot of the said affidavit and I identify my signature. I affirm that whatever stated in the said affidavit is true to my knowledge and correct. It was prepared under my instructions.

1 The witnesses are discharged.

2 Both the affidavits of evidence dated 25<sup>th</sup> March 2025 of P.W.-1 and P.W.-2 are taken on record and marked as **Exhibit P-1 and Exhibit-P-2** respectively.

3 The matter shall now proceed to record the cross-examination of PW-1 and P.W.-2. Hence, Advocate Ms Sneha Goyal is appointed as Commissioner for recording of cross-examination of Plaintiff's witnesses. The details of the Court Commissioner are as follows:

Ms Sneha Goyal, Advocate,  
C-401, Shiv Veer, Sector 8,  
Charkop, Kandivali (W)  
Mumbai 400 067  
Mobile: 9833326293  
Email: snehabgoyal@gmail.com

4 Learned counsel for the defendants submits that he will not require more than two sessions for cross-examination of both the attesting witnesses.

5 Given the advanced stage of attesting witnesses, a request for cross-examination by way of virtual mode was made. There was no opposition to this, subject to the assurance that the witnesses would be alone and not to be prompted in any manner. To ensure this the following directions are passed:-

- (i) All cross examination shall be conducted strictly in question and answer form.
- (ii) The Commissioner is at liberty to exercise discretion under Order XVIII, Rule 4(4) of the Code of Civil Procedure, 1908 to note the demeanour of the witness, wherever necessary.
- (iii) The Commissioner is directed to video-record the cross-examination and submit the original audio visual recording along with the Commissioner's report to the Registry.
- (iv) Costs of the commission shall be borne by both the parties.
- (v) The parties shall also pay costs of Rs.500/- per hearing to the Court Clerk, who attends the Commission with the Court papers. This is required since these Clerks attend the Commission, in addition to their duties and outside their normal working hours.
- (vi) The Commissioner shall not permit any application for adjournment on the dates fixed, except where absolutely unavoidable.
- (vii) The Court Commissioner shall submit report with notes of evidence within six weeks from today.

6 In addition to the above directions the defendant to nominate an advocate who is also from Delhi can be present during the cross-examination of the attesting witnesses.

7 Stand over to 16<sup>th</sup> June 2025 for directions.

**(ARIF S. DOCTOR, J.)**