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Abha Pandya

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Year of Call: 2007

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Clerk: Joanne Caunt

Clerk: Ellen McInall

PRACTICE AREAS

Wills, Trusts and Probate

Property

Professional Negligence and Disciplinary

Partnership and LLP

PROFILE

Abha is a traditional chancery barrister with particular expertise in contentious trusts and probate matters. Abha has previously worked at a highly regarded private client law firm as in house counsel on contentious trusts and probate matters, and was previously Head of Contentious Trusts & Probate at a nationwide legal 200 firm.

Abha has appeared as sole counsel before the Court of Appeal, High Court, and County Court. Abha has also previously appeared before the Upper Tribunal in high-value employment cases.

Wills, Trusts and Probate

Abha provides expert advice and representation in a wide range of trusts and probate disputes. Abha has represented both claimants and defendants, including executors and charities in settlement negotiations, mediations, interim applications and trials.

Abha is mindful of the personal impact of such litigation against a background of family dispute and grief as well as the pressing financial needs of individuals and charities.

Abha also has significant experience of applications to the Court of Protection, including applications for deputyship, contested deputyship hearings, applications for statutory wills and specific applications regarding P's property and financial affairs.

Recent and ongoing work includes:

- Advising and preparing a Court of Protection application for a statutory will;
- Represented the son of the deceased in a six-day trial. He brought claims under the Inheritance (Provision for Family and Dependants) Act 1975, a claim for proprietary estoppel and challenges to the will based on undue influence and lack of testamentary capacity;
- Acting for a trustee facing breach of duty allegations and allegations of self-dealing – value of the claim against the trustee- £5 million (Trust assets value £11 million). Successfully negotiated a settlement after 6 months of involvement despite the case already having dragged on 5 years prior;
- Preparing a Beddoes application and representing the executors in the High Court, seeking permission to bring a substantial banking litigation (multi-million pound value) claim on behalf of the Estate;
- Advising the long term co-habiting partner (25 years) of the deceased who died suddenly without updating his will achieving satisfactory settlement without trial – Estate value £1.5 million;
- Advising the daughter of the deceased on a claim against her late mother's estate by her brother, who sought to set aside protective trusts which arose under a codicil. Estate value – £4.5 million;
- Advising the Executor of an Estate, a friend of the deceased who was also the remainderman beneficiary of a life interest trust in the deceased's property in respect of a challenge against the validity of a will- negotiated a way to complete the administration of the Estate and secured a substantial sum in settlement. Estate value – £650k;
- Advising and achieving a settlement in a claim against several charities on behalf a son in similar circumstances to the claimant in *Ilott v Mitson* [2017] UKSC – Estate value – £1.5 million;
- Acted for a minor in a claim against the Executors for rectification of a will whereby the minor's interest would be reduced; value of the Estate- £5million;
- Successfully negotiated a minimal settlement on behalf of defendant charities in respect of a claim by the daughter of the deceased who cared for her for the last 5 years of her life;
- Achieved a significant settlement on behalf of wife of the deceased who was given just a 2 year right to occupy the deceased's home under the will, notwithstanding the brevity of the marriage and the fact that this was her fourth marriage;
- Advised on defending a claim of undue influence brought by siblings against the executor and sole beneficiary; value of the Estate £400k, keeping the settlement to a minimum.

Property

Abha undertakes instructions in relation to disputes over beneficial interests in real property and land including claims for proprietary estoppel, constructive trusts, claims under the Trusts of Land and Appointment of Trustees Act 1996 to determine beneficial interests/ subsequent orders e.g. an order for sale and occupational rent.

Recent and on-going cases:

- Advising and preparing particulars of claim for proprietary estoppel and a constructive trust on behalf of a co-habitee who was omitted from his partner's will;
- Advising siblings in respect of a proprietary estoppel claim against their brother and late mother's executor;
- Advising a co-habitee regarding an offer of settlement and prospects of seeking a greater interest in property bought jointly with his former partner;
- Advising and negotiating in mediation a settlement on behalf of a sole beneficiary and executrix of her mother's estate in respect of proprietary estoppel claim by her mother's former partner;
- Advising the executors of a multi-national estate (value £10 million) in respect of a potential proprietary estoppel claim by an incapacitated beneficiary.

Professional Negligence and Disciplinary

Abha has advised on professional negligence claims against solicitors, will drafters and accountants. Abha has drafted letters of claim, letters of response, particulars of claim, and negotiated settlements on behalf of law firms and claimants in professional negligence claims.

Recent and ongoing cases:

- Advising on a claim against solicitors for inadequate drafting of a partnership deed and supplementary documents, and failure to advise a partner of the need to prepare a further deed to complement the partnership documents;
- Advising on a claim against solicitors for poor advice where there was a failure to advise to pursue a want of knowledge and approval claim;
- Advising in respect of potential claim for negligence against solicitors for failing to advise of a potential claim under the Inheritance (Provision for Family and Dependents) Act 1975;
- Advising the former clients of a law firm in respect of a claim against will drafting solicitors for failure to enquire whether the deceased in fact owned a substantial asset;
- Acting for a minor in a negligence claim against a legal 100 firm for a failure to draft a will in accordance with testator's instructions, leading to a rectification claim (essentially claim for interest and costs incurred due to claim for rectification for solicitors' failure to include beneficiaries under will trust);
- Advising and achieving settlement in a claim against a law firm where there was a failure to seek a report on the testatrix' capacity;
- Acted and achieved settlement in respect of claim for poor advice in respect of the prospects of an inheritance act claim. The claim was abandoned by solicitors when Counsel provided an opinion (some time after those solicitors had already racked up substantial costs for the client and the costs were pursued against client in full);
- Provided formal advice on more than a dozen cases of potential professional negligence in respect of third

party referrals to a law firm and a failure to advise;

- Advised and negotiated a minimal settlement on behalf of a law firm in respect of a failure to advise of a conflict of interest.

Partnership and LLP

Abha undertakes a wide range of instructions in respect of partnership documentation and potential disputes, with a particular focus on farming partnerships.

Recent and on-going cases include:

- Advising on farming (traditional) partnerships e.g. in respect of gifting of a specific partnership asset;
- Advising on draft partnership deeds;
- Advising on winding up a partnership;
- Advising on the impact of death of a partner on a partnership.

CAREER AND ASSOCIATIONS

Called to the Bar (Middle Temple) 2007

ACTAPS Course – Completed 2019

City University Bar Vocational Course 2006

SOAS, University of London LL.M. Public International Law including International Economic Law 2005

Pembroke College, University of Oxford, BA Jurisprudence 2003

Member of the Chancery Bar Association



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