

Sharayu.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION NO. 33 OF 2015
IN
NOTICE OF MOTION NO. 62 OF 2011
IN
TESTAMENTARY SUIT NO. 105 OF 1998

Vaibhav Dayabhai Patel	...Applicant
<i>In the matter between</i>	
Vaibhav Dayabhai Patel	...Plaintiff
<i>Versus</i>	
Wavell Joseph Pereira & Anr.	...Defendants

Ms. N.S. Moily, for the Applicant.

CORAM: G.S. PATEL, J
DATED: 4th August 2015

PC:-

1. Heard. It appears that on 11th May 2012 an order came to be passed on a Notice of Motion filed by a third party developer. That Motion No. was 144 of 2012. However, the order of 11th May 2012 is shown as having been passed in Notice of Motion No. 62 of 2011. This is evidently incorrect. Notice of Motion No. 62 of 2011 was filed by the Plaintiff and not by the Defendants or the third party. It

sought a setting aside of an order dated 1st October 2010 dismissing the Suit for default.

2. The result of this is that the Plaintiff's Suit is shown as having been dismissed for default and the Plaintiff's Notice of Motion is incorrectly shown as having been disposed of on 11th May 2012. On that day, it was the third party's Notice of Motion No. 144 of 2012 that was actually disposed of.

3. In consequence, it is necessary to make this Motion absolute in terms of prayer clauses (a) and (b). So ordered. The order dated 11th May 2012 is to be corrected to read as having been passed in Notice of Motion No. 144 of 2012.

4. Notice of Motion No. 62 of 2011 is restored to file. List the Notice of Motion No. 62 of 2011 for directions on 7th August 2015.

5. Learned Advocate for the Plaintiff will give notice to the Advocates for the Defendants as also to the Advocates for the Applicant in Notice of Motion No. 144 of 2012, enclosing a copy of today's order.

(G. S. PATEL, J.)