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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO. 21 OF 2015
IN
TESTAMENTARY SUIT NO. 89 OF 2014**

Shrikrishnanand Arvind Velinker	...Plaintiff
<i>Versus</i>	
Kamalini Arvind Velinkar	...Defendant

Mr. Rajendra Pai, *with Mr. A.R. Pai, i/b Bina Pai, for the Applicant / Defendant.*

Mr. Gaurang Mehta, *with Nikitha menon, i/b Dipal Mehta, for the Plaintiff.*

CORAM: G.S. PATEL, J
DATED: 12th June 2015

PC:-

1. The prayer in the Chamber Summons is that the issues framed on 7th January 2015 be recast or re-framed. On A reconsideration of the issues that I framed on that day, I am of the view that Mr. Pai is correct in his submission that these require to be re-framed. The issues framed on that day are substituted with the issues appended to this order.

2. Mr. Pai further points out that the 1st Defendant is also one of the three named executors as joint executors under the Will. His case is that the Plaintiff was not asked to join in the application for probate or asked to accept or renounce executorship. In view of this, he submits that an additional issue be framed at this stage as to whether the Plaintiff is exclusively entitled to apply for probate to the alleged Will and, if not, whether the Suit is liable to be dismissed. In my view, given the facts and circumstances of the case, this is not a matter that can be decided at the stage of Chamber Summons. It is certainly an issue that will have to be considered at the final hearing of the suit. Accordingly, issue No. 3 is framed. All contentions in that behalf are kept open.

3. List the suit for admission and denial of the Plaintiff's documents on 17th July 2015.

4. The Chamber Summons is accordingly disposed of with no order as to costs.

(G. S. PATEL, J.)

ISSUES FRAMED ON 12TH JUNE 2015
IN
TESTAMENTARY SUIT NO. 89 OF 2014

1. Whether the Plaintiff proves that the writing dated 11th April 2012 was duly and validly executed and attested as required by law as the last Will and Testament of the deceased, namely, Arvind Vasant Velinker?
2. Whether the Plaintiff proves that at the time of the said writing the deceased was of sound and disposing state of mind, memory and understanding?
- 3 Whether the Plaintiff proves that he is entitled to apply for probate of the alleged Will to the exclusion of the 1st Defendant and, if not, whether the Suit and Petition are liable to be dismissed?
- 4 Whether the Defendants prove that the alleged Will is a false and fabricated document?
- 5 Whether the Defendants prove that the alleged Will is an unnatural Will?
- 6 What relief and what order?

(G. S. PATEL, J.)