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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO. 34 OF 2015
IN
TESTAMENTARY SUIT NO. 86 OF 2011
IN
TESTAMENTARY PETITION NO. 1157 OF 2010**

Swastik Industries	...Applicant
<i>In the matter of</i>	
Sachin Manohar Bandkar	...Plaintiff
<i>Versus</i>	
Mahendra Balbhadra Thakkar	...Defendant

**Ms. Ankita Singhania, with Mr. Nilesh Tated, i/b M/s. Mahimtura
& Co., for the Applicant.**
Mr. Shivaji Haral, i/b M/s. Aurora Law, for the Defendant.

**CORAM: G.S. PATEL, J
DATED: 8th June 2015**

PC:-

1. The application seeks impleadment in a probate petition, one that is contested. The basis for this application for impleadment is that the Applicant, Swastik Industries, is the owner of certain immovable property that the deceased apparently disposed of in his lifetime. According to Swastik Industries, this property cannot, for that reason, form part of the deceased's estate. The Applicant's

anxiety is that because this property is mentioned in the Will, and, therefore, in the probate petition, one of the heirs or legatees will lay claim to it and jeopardise the Applicant's title to that property.

2. It is well settled in law that matters of probate do not decide questions of title. If title has properly passed to the Applicant from the deceased during his lifetime, and particularly if this was under a registered document (undoubtedly necessary), merely on the basis of probate, which only proves the Will in its solemn form and nothing else, no legatee, beneficiary or heir can ever divest the Applicant of title properly obtained to that property. If any heir, legatee or beneficiary claims title to that property, he or she must file an appropriate civil suit on title against the Applicant.

3. As regards the probate petition itself, the Applicant has no caveatable interest. Indeed, it claims none. It seeks only to protect its title to the property in question. As I have noted that that title, whatever it may be, is wholly unaffected by the present probate proceedings.

4. The Plaintiff and the Defendant, both represented in Court, today agree that they will not on the basis of any probate that may be granted, make any application to any revenue or registering authorities for any change in any records relating to the property in question and without obtaining an appropriate order in relation to the title to that property from a competent civil court after notice to the Applicant. The probate Petitioner will, of course, be at liberty to adopt suitable civil proceedings to establish any such title, if such a right is available to the probate Petitioner.

5. The Chamber Summons is disposed of in these terms with no order as to costs.

(G. S. PATEL, J.)