

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 37 OF 2015
WITH
NOTICE OF MOTION NO. 12 OF 2014
IN
TESTAMENTARY SUIT NO. 116 OF 2014
IN
TESTAMENTARY PETITION NO. 1443 OF 2011**

Malini Hersh Kotecha & 2 Ors.

...Petitioners

Versus

Shivkumar Indersen Mirchandani

...Respondent

Mr. Amit Shroff, *for the Petitioner in MPT/37/2015 and for the Defendant in NMT/12/2014.*

Mr. Puneet Desai, *i/b Ivor P. D'Cruz for the Respondent in MPT/37/2015 and for the Plaintiff in NMT/12/2014.*

CORAM: G.S. PATEL, J

DATED: 10th June 2015

PC:-

1. On instructions and after a few moment of anxious deliberation, Mr. Shroff for the Revocation Petitioner, seeks leave to withdraw the Miscellaneous Petition with liberty to adopt suitable

civil proceedings to establish title to Flat No. 202 of the Olympus Cooperative Housing Society Limited, 5C, Altamount Road, Mumbai – 400 026 as also in respect of other properties to which the Revocation Petitioner lays claim. By way of abandon caution, it is clarified that the inclusion of this flat in the schedule to the Probate Petition and the grant of probate subsequently does not by and of itself establish or confer title if none was previously held by the deceased. All rights and contentions of the revocation Petitioner as also the Respondent are expressly kept open in that regard for adjudication in appropriate civil proceedings in a Court of competent jurisdiction.

2. In view thereof, Notice of Motion No. 12 of 2014 does not survive and is disposed of as infructuous.

(G. S. PATEL, J.)