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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISC. REVOCATION PETITION NO. 118 OF 2013
IN
TESTAMENTARY PETITION NO. 1298 OF 2010**

Gurdev Kaur Rooproy	...Petitioner
<i>Versus</i>	
Harbinder Singh Rooproy	...Respondent

Mr. D.M. Tailor, a/w R.K. Gandhi, for the Petitioner.
Mr. Gaurang R. Mehta, for the Respondent.

CORAM: G.S. PATEL, J
DATED: 5th January 2015

PC:-

1. On instructions from the Petitioner Ms. Gurdev Kaur Rooproy who is personally present in Court, learned advocate makes a statement that the Petitioner has only a one-fourth share, right, title and interest in the estate of the late Daulat Singh Rooproy, and in particular in respect of room/flat No. 2/47, Shri Nityanand Co-operative Housing Society Ltd., Welfare Centre Hall, Andheri (E), Mumbai 400069. This flat was claimed by the Revocation Petitioner exclusively. Despite a representation from the Respondents (the original Petitioners in the Petition for Letters of

Administration) on 21st March 2011, the Petitioners entered into an agreement dated 24th March 2011 with the Developer and the Society for permanent alternative accommodation exclusively in her favour. This was on the basis that the Petitioner was exclusively entitled to the flat in question.

2. The Petitioner has also admittedly receive an amount of Rs. 19,94,500/- from the Developer as stated in paragraph 5 (vi) of the Petition itself. Now if the Petitioner accepts, as she does today, that she has only a one-fourth interest in the estate, then clearly she is not entitled exclusively to permanent alternative accommodation or to the entirety of the Rs. 19,94,500/- that she has received. As regards the permanent alternative accommodation, I am informed that although the building has been demolished, the redevelopment work is at a stand still. It will be for the Respondents, on the basis of this order, to take up the matter with the builder directly.

3. This leaves the question of amount of Rs. 19,94,500/-. Although it is the argument on behalf of the Petitioner that the entire flat has been under valued, this can make no difference. The Petitioner is only entitled to only one-fourth of the amount that she has received. The reminder will have to be handed over to the Respondent for distribution to the other three branches who succeed to the estate of the deceased. The Petitioner shall ensure that the 75% of the amount of Rs. 19,94,500/- is to be paid over to the Respondent within a period of three weeks from today.

4. The Respondent has deposited an amount of Rs. 12,62,000/- to secure the alleged interest of the Petitioner. The Respondent will

be entitled to withdraw that entire amount with accrued interest on the basis of this order.

5. In view of foregoing, the Miscellaneous Petition No. 118 of 2013 is allowed to be withdrawn. It is made clear that the withdrawal of the Petition does not mean that the directions passed in the previous paragraphs are not to have effect. The Petitioner's withdrawal is being permitted only on the basis of the statement made on behalf of the Petitioner and because the Petitioner is agreeable to the directions passed.

6. On these terms, the Petition is allowed to be withdrawn. No order as to costs.

(G. S. PATEL, J.)