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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY SUIT NO. 64 OF 2005
IN
TESTAMENTARY PETITION NO. 237 OF 2005**

Sunil Sureshchandra Khare	...Plaintiff
<i>Versus</i>	
Smt. Mangala Vinayak Patwardhan	...Defendant

**Mr. Kirit Mody, with Mr. Narayanswamy, i/b M/s. Shroff & Co., for
the Plaintiff.**

**CORAM: G.S. PATEL, J
DATED: 27th August 2015**

PC:-

1. The matter is listed today for hearing and final disposal. The Petition is for Letters of Administration with Will annexed to the property and credits of one Keshav Narayan Khare, who is said to have died on 4th March 1994 leaving a Will dated 17th November 1989 in Marathi.

2. The Petition was originally brought by the grandson of the deceased Testator, i.e., the deceased's son's son. A caveat was entered by the deceased's married daughter Mangala. She filed an

Affidavit in Support. The Will in question was attested by three witnesses, one of whom, Gajanan, gave evidence. The original Petitioner himself passed away and the original Petitioner's brother, one Satish Sureshchandra Khare, sister, one Anuya Arun Mhatre and daughters Geetali Sunil Khare and Rachana Sunil Khare were brought on record as Plaintiffs.

3. In view of the Caveat, Testamentary Petition was renumbered as a Suit. Issues were framed on 21st January 2008. Thereafter, documents were marked and the Plaintiffs' led evidence. They were then cross-examined by the Advocates appointed by the Defendant.

4. On 27th January 2015 the matter was listed before me. Mr. Mody for the Plaintiffs closed the Plaintiffs' case. This was noted. Neither the Defendant nor her Advocate were present in Court. Nonetheless, directions were passed for the Defendant to file her Affidavit of Evidence, compilation and Affidavit of documents on or before 16th February 2015.

5. On 23rd March 2015, the matter was taken up again. I noted that the Defendant and her Advocate were absent on the previous occasion and that there had been no compliance with the directions issued on 27th January 2015. The Defendant and her Advocate were also absent on 23rd March 2015. This position remained unchanged even on the next date, 31st March 2015. By now, having given ample opportunity to the Defendant, I directed that the Defendant's case was deemed to be closed, since by the previous order I hadf already put the Defendant to sufficient notice in that

behalf and further directed that the matter be set down for trial. On 24th April 2015, it was listed but did not reach. It is called out today. Yet again none appears for the Defendant.

6. The Defendant had has more than sufficient opportunity to lead her evidence, if any. For the last eight months neither the Defendant nor her Advocate have attended this Court. All the orders passed at least since January 2015 have been uploaded and are available on the website. It seems that even on 2nd February 2012, when a Chamber Order was filed before the Prothonotary & Senior Master none appeared for the Defendant.

7. This is a Petition of 2005. It has been pending for 10 years in this Court already. It is not possible to delay this matter any further. In view of the absence of the Defendant, the Defendant's Caveat is discharged.

8. The Suit is decreed, the Will having been sufficiently proved by one of the three attesting witnesses. Letters of Administration to be granted as sought subject to compliance with all office objections.

9. Drawn up decree dispensed with.

(G. S. PATEL, J.)