

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION NO. 118 OF 2014
IN
TESTAMENTARY PETITION NO. 1092 OF 2009**

Mrs. Usha Bharat Shetty	...Plaintiff
<i>Versus</i>	
Sadanand A. Shetty	...Defendant

Mr. Ajit Karwande, *for the Plaintiff in TS 41/03 & Defendant in TP 708/02.*
Mr. M.D. Naik, *for the Defendant in TS 41/03 & Plaintiff in TP 708/02.*

CORAM: G.S. PATEL, J
DATED: 6th January 2015

PC:-

1. Not on board. By consent taken on board.

2. The Motion seeks that an order dated 18th July 2014 passed by the Additional Prothonotary and Senior Master be set aside. That order confirms that all office objections in respect of the Caveat have been complied with. The Plaintiff now seeks to dispute the order of the Additional Prothonotary and Senior Master by

saying that in fact objections have not been removed. I do not see how that can be done. The Additional Prothonotary and Senior Master must have satisfied himself as to the removal of those office objections before making the order of 18th July 2014. The result for the Petitioner may be unfortunate in the sense he will now be served with the Caveat. But if there is a valid caveat and an affidavit in support, the Petition will have to proceed as a contested one.

3. The Notice of Motion is dismissed with no order as to costs. Office is directed to renumber the Testamentary Petition No. 1092 of 2009 as a Suit. Mr. Naik will serve Mr. Karwande with a copy of the Petition in Testamentary Petition No. 708 of 2002, and Mr. Karwande will serve his caveat and affidavit in support on Mr. Naik.

(G. S. PATEL, J.)