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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 120 OF 2015
IN
TESTAMENTARY PETITION NO. 1838 OF 2014**

Gibson Manuel Dsouza	...Petitioner
<i>Versus</i>	
Armstrong Joseph Dsouza	...Respondent

Mr. B. A. Rumao, *i/b Mr. D. Dabre, for the Petitioner.*
Mr. V. D'Silva, *for the Respondent.*

CORAM: G.S. PATEL, J
DATED: 21st September 2015

PC:-

1. This Petition is thoroughly misconceived. The Petitioner seeks revocation of the Letters of Administration with a certified copy of the Will annexed on the basis that the Petition for Letters of Administration included some property to which the revocation Petitioner now claims title. An identical submission was made earlier and was rejected not once but multiple times as the order of 2nd March 2015 in Testamentary Petition No. 1838 of 2014 will show. In that Testamentary Petition, Letters of Administration was originally granted on 31st March 2011. The grant was later revoked. The matter was carried in appeal by the original Petitioner and on

30th September 2014 the Appeal Court held in terms that the Respondents to the Appeal, situated in precisely the same circumstances as the present revocation Petitioner, had no caveatable interest at all and that their claims to remove properties were unaffected by the grant of Letters of Administration with Will annexed. The Appeal Court clarified that such a grant would not affect the title of the true owner of the property in question.

2. I noted this in my order dated 2nd March 2015 in Testamentary Petition No. 1838 of 2014 and again in another Miscellaneous Petition (L) No. 650 of 2015 in Testamentary Petition No. 1838 of 2014 which was disposed of on 10th June 2015. In paragraph 5 of the order dated 10th June 2015, I said:

“5. To my mind there is absolutely no doubt or ambiguity about the order of the Appeal Court. It categorically states that any question of title will remain unaffected by the present Petition for Letters of Administration with Will annexed. In other words, any contest as to title to this property will necessarily have to be in a properly brought civil suit, irrespective of whether or not that property is included in the schedule to the Testamentary Petition. The mere inclusion of that property in the schedule to the Testamentary Petition does not by itself determine, confer or confirm title to the property.”

3. These very observations are sufficient to dispose of the present Petition as well. The Petition is disposed of in these terms with no order as to costs.

(G. S. PATEL, J.)

CERTIFICATE

“Certified to be a true and correct copy of the original signed Judgment/Order.”