

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION NO. 8 OF 2015
IN
TESTAMENTARY PETITION NO. 613 OF 2013**

Rajesh Darshanlal Bindra	...Petitioner
<i>Versus</i>	
Sardar Pargat Singh Katahura	...Respondent

Mr. Prasad Patil, i/b Brijesh Patil, for the Plaintiff.

**CORAM: G.S. PATEL, J
DATED: 24th February 2015**

PC:-

1. The motion seeks a recall of an order of 25th November 2014 and thereby a recall of the attesting witness Sardar Pargat Singh Katahura. By the order in question I had directed payment of Rs.15,000/- to the witness. There was subsequently some issue about the dishonour of the cheque in payment of these costs. Learned counsel for the Applicant informs that this has been resolved and the amount has been paid to the witness.

2. So that the Applicant/Petitioner is not put at a disadvantage, the witness is recalled. The prayers for having him declared hostile

and for permitting the Petitioner to cross-examine the witness are not granted at this stage. The order of 25th November 2014 is itself not recalled. It is not necessary to do so. It is sufficient if the witness is himself recalled.

3. Depending on the answers that the witness now gives, it will be open for the learned Advocate for the Petitioner to make an oral application at the appropriate stage for leave to put questions in cross-examination or leading questions to the witness, or even to have him declared hostile, if so permissible in law. It is made clear that the fact that these reliefs are not granted today does not mean that these reliefs have been refused or declined on merits. All contentions of the Petitioners are specifically kept open in this regard. The only reason for not granting such reliefs today is because the witness is not personally present in Court and his answers on recall are yet unknown.

4. The Associate of this Court will contact the witness and will fix the date convenient to him. The witness will be requested to give some convenient date within the next four weeks before 28th March 2015. The cross-examination will be taken in Court.

5. Notice of Motion is disposed of in these terms.

(G. S. PATEL, J.)