

SHEPHALI

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO.629 OF 2014**

Ram Murat Kamta Prasad Chauraisya	...Petitioner
<i>Versus</i>	
Shubhangi Ghanshyam Vispute	...Respondent

Mr. Prabhu Velar, for the Petitioner.

**CORAM: G.S. PATEL, J
DATED: 24th June 2016**

PC:-

1. Mentioned. Not on board. Taken on board.

2. Mr. Velar states that this Petition is not maintainable because it has been filed seeking Letters of Administration by the nephew of the deceased. He is admittedly not entitled to maintain this Petition. A submission is made that a fresh Petition will be filed by the deceased's brother. Mr. Velar only seeks that the Court fees paid in this Petition, if allowed to be withdrawn, be permitted to be used or adjusted against the Court Fees payable on the Petition to be filed by the deceased's brother. This is not unreasonable, given the circumstances. I see no reason why Court Fees should have to be paid twice over, especially since the first petition (the present one) is

not being dismissed on merits, or being withdrawn for any reason other than the realization that it was mistakenly filed.

3. On Mr. Velar's request, the Petition is allowed to be withdrawn with leave to the deceased's brother to file a fresh Petition seeking Letters of Administration to the estate of the deceased. The Court fees paid in Testamentary Petition No. 629 of 2014 will, on an application made by Mr. Velar, be treated and adjusted as the Court Fees due on the Petition brought by the brother of the deceased.

(G. S. PATEL, J.)