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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO. 42 OF 2016
IN
TESTAMENTARY SUIT NO. 7 OF 2007
IN
TESTAMENTARY PETITION NO. 964 OF 2006**

Manilal Sunderji Doshi	...Plaintiff
<i>Versus</i>	
Kamal Manilal Doshi & Arshana Manilal Doshi	...Defendants

Mr. A.R. Bapat, *for the Plaintiff.*
Ms. Surin Usgaonkar, *for the Defendants.*

CORAM: G.S. PATEL, J
DATED: 21st June 2016

PC:-

1. The probate Petitioner having passed away, this Chamber Summons seeks substitution of the Applicant as the Plaintiff and conversion of the Petition into one for Letters of Administration with Will annexed.

2. The Petition was for probate. It was contested. Following the trial, it was disposed of by an order dated 7th March 2013 (Smt. R.S. Dalvi, J). No appeal was filed. A short while later, on 27th March

2013, the probate Petitioner passed away. Hence, this application. Obviously, the probate granted by Mrs. Justice Dalvi's order cannot now be issued. The application, therefore, seeks leave to convert the Petition into one for Letters of Administration with Will annexed; to allow the name of the Applicant, one of the heirs, to be substituted as the Plaintiff; and finally to allow the grant to be issued as one for Letters of Administration with Will annexed.

3. I can see no reason to deny the reliefs. Certainly, there can be no question of deciding the Will afresh or having to issue citations once again. The Will itself is the same. A contest to that Will has already been decided. That challenge failed. The only question now is the form of the grant to be issued. The Will stands proved in its solemn form.

4. In this view of the matter, the Chamber Summons is made absolute in terms of prayer clauses (a), (b), (c) and (d) with no order as to costs.

(G. S. PATEL, J.)