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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION NO. 84 OF 2016
IN
TESTAMENTARY SUIT NO. 2014 OF 2015
IN
TESTAMENTARY PETITION NO. 637 OF 2011**

Suresh Kunhiraman Nair & Another	...Plaintiffs
<i>Versus</i>	
Mohan Ganpat Thasal	...Defendant

Ms. Triveni Jani, *with A. Kalal, i/b M/s. Karkand Gandhi & Co., for the Plaintiffs.*

Ms. Ashwini Padalkar, *i/b Divekar & Co., for the Defendant.*

CORAM: G.S. PATEL, J
DATED: 6th June 2016

PC:-

1. This Notice of Motion is unsustainable. It seeks discharge of the Caveat on the ground that the Caveator is merely a legatee under a previous codicil to a previous Will and that the previous codicil and Will have both being revoked by the Will that is now being sought to be propounded. The argument is self-defeating. If the Petition for probate of the later Will fails, the Caveator will undoubtedly be entitled to seek his legacy under the previous

testamentary documents. The question will then arise of probate to the previous Will and its codicil.

2. In view thereof, the Notice of Motion is dismissed. There will be no order as to costs.

3. List the Suit for framing issues on 22nd June 2016.

(G. S. PATEL, J.)