

SHEPHALI

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY SUIT NO. 12 OF 2006
IN
TESTAMENTARY PETITION NO. 623 of 2005
WITH
TESTAMENTARY SUIT NO. 19 OF 2008
IN
TESTAMENTARY PETITION NO. 217 OF 2007

Clement Soares ...Plaintiff
Versus
Juliani Farias & Another ...Defendants

Ms. Rashmi Patil, *i/b M/s. S.K. Srivastav & Co., for the Plaintiff.*
Mr. Raphael D'Souza, *for the Defendants.*

CORAM: G.S. PATEL, J
DATED: 15th December 2016

PC:-

1. The application is for speaking to the minutes. There are errors in the order dated 23rd November 2016 which are to be corrected as follows:

- (a) The appearance for the Plaintiff shall be corrected to read "*Mr. Shailesh Shah, Senior Advocate, with Mr.*

Abhinav Chandrachud, Ms. Simeen Shaikh, Ms. Rashmi Patil & Ms. Priyanka Gharge, i/b S.K. Srivastav & Co., for the Plaintiff”;

- (b) The reference to “**Eliza**” in the bottom seventh line of paragraph 10 on page 8 shall be corrected to read as “**Juliana**”;
- (c) The sentence “some consequences because in *her Evidence Affidavit Juliana* later says that Leopold told her this fresh Will was given not to Clement but to Eliza herself” in the bottom fourth line of paragraph 10 on page 8 shall be corrected to read “some consequences because in *Leopold's Affidavit of Evidence* he says that this fresh Will was given not to Clement but to Eliza herself.”;
- (d) The word “**partly**” appearing in the first line of paragraph 18 on page 13 shall be deleted;
- (e) The word “**PW2**” appearing in the second and third line of paragraph 23 on page 18 shall be corrected to read “**DW2**”;
- (f) The reference to “**Juliana**” in the fourth line of paragraph 37 on page 25 shall be corrected to read as “**Eliza**”;

(g) The reference to the document at “**Exhibit “D1”**” in the second line of paragraph 41 on page 29 shall be corrected to read “**Exhibit “P9”**”

2. The order dated 23rd November 2016 be read accordingly.

3. Mr. D’Souza now seeks stay of the operation of that order. He candidly admits that he did not seek a stay of the order when it was pronounced. The application is very strongly opposed by the Plaintiffs. Given the fact that this is an order finally disposing of the Suit, I think it is only reasonable that Mr. D’Souza be given some time. After all he has a statutory right of a first appeal. That Appeal will be rendered difficult and perhaps impossible if in the meantime probate is issued.

4. I had directed the Registry to issue probate before 22nd December 2016. Rather than formally grant a stay, I will alter that direction. In modification of the 23rd November 2016 order, the Registry will issue probate as expeditiously as possible at the earliest possible date after 10th February 2017.

(G. S. PATEL, J.)