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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION (L) NO. 358 OF 2016
IN
TESTAMENTARY PETITION NO. 19 OF 1973
WITH
NOTICE OF MOTION NO. 63 OF 2016**

Mahesh Kanji Patel & Another	...Petitioners
<i>Versus</i>	
Manji Devji Patel & 3 Others	...Respondents

Mr. V.M. Vaghela, *for the Petitioners.*
Mr. Anurag Gokhale, *AGP, for Respondent No. 2.*
Mr. Tejas Vora, *i/b M/s. Divya Shah & Co., for Respondent No. 1.*
Mr. Manoj Badgujar, *i/b Mr. A.P. Kulkarni, for Respondent No. 3*
Mr. J.S. Kini, *with Mr. Suresh Dubey, i/b Mr. Deepak Thakre, for Respondent No. 4.*

CORAM: G.S. PATEL, J
DATED: 4th May 2016

PC:-

1. The Miscellaneous Petition is admittedly concerned with title to a particular property in respect of which probate was obtained. Probate proceedings do not determine the title; that is well-settled in law. There is no adjudication as to the validity or correctness of title by way of or on account of probate being granted. Whether or

not the Testator had ownership or leasehold rights is not determined by the probate proceedings. All these are the subject matter of a properly instituted Civil Suit brought within the prescribed period of limitation.

2. In my view, no Authority or functionary is entitled to treat probate as conferring, establishing or transferring title to any property. Where disputed, that can only be determined by a Civil Court of competent jurisdiction in appropriate civil action.

3. With these observations, the Miscellaneous Petition is dismissed as withdrawn. All contentions are expressly kept open on all sides, including as to the issue on limitation, it being clarified that these proceedings is not one such as would operate to save limitation or to extend the period of limitation.

4. The pending Chamber Summons and Notice of Motion do not survive and are disposed of as infructuous.

5. In addition, the learned Advocate for the Miscellaneous Petition withdraws all allegations made against the State Government in these proceedings.

(G. S. PATEL, J.)