

JS/V

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO.58 OF 2016
IN
TESTAMENTARY PETITION NO. 118 OF 2014**

Mr. Vinod Lalji Nandu & Ors.	...Applicants
<i>In the matter between</i>	
Shri Surji alias Suresh Khimji Satra	...Petitioner
<i>Versus</i>	
Hansraj alias Hasmukh Khimji Satra	...Defendant

Ms. Sweedal Karkada, i/b. Jurist Uno for the Petitioner.
Ms.G.V. Bhagwat, i/b. M/s. Divekar Bhagwat and Co. for the
Applicants.

CORAM: G.S. PATEL, J
DATED: 18th April 2016

PC:-

1. This Chamber Summons is thoroughly misconceived. The Applicants are admittedly not heirs of the deceased, but are only distantly related.
2. According to the Applicants, they are owners of a certain property listed at Serial No. 3 of the Schedule of Properties annexed at Exhibit "C" to the Testamentary Petition. It is on this

basis alone that the Applicants have sought 'intervention' in the Testamentary Petition.

3. The Testamentary Petition is for probate. That is an action that only seeks proof of the Will in its solemn form. It is well settled, and this is in fact accepted on behalf of the Applicants, that probate proceedings do not decide questions of title. In any case, there can never be a question of 'intervention' in a probate proceeding.

4. In view of this, the Chamber Summons must be dismissed. It is; however, with the clarification that the issue of Applicants' title to the property in question will remain unaffected by the outcome of the probate Petition.

5. The Chamber Summons is dismissed with these observations with no order as to costs.

(G. S. PATEL, J.)