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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO. 579 OF 2015**

In Re: Bharat Ladharam Asarpota *... Deceased*

Kusum Bharat Asarpota ...Petitioner

~ versus ~

Bhagwan Ladharam Asarpota & Ors ... Respondents

Mrs. Purnima G. Bhatia, *for the Petitioner.*

Mr. Ashish Kamat, *with Mr. Kunal Mehta & Mrs. H.V. Pradhan, i/b
Cawford Bayley & Co., for Respondents Nos. 2 and 3.*

CORAM: G.S. PATEL, J
DATED: 16th December 2016

PC:-

1. The application for a Succession Certificate was extensively argued by Ms. Bhatia for the Petitioner and by Mr. Mehta and Mr Kamath for the Respondents Nos. 2 and 3. Both sides have since taken instructions and agreed that the following conditional consent order will dispose of the Petition.

2. So that there is no ambiguity about the background and context, a few facts may be stated. The Petition is brought by one Kusum Bharat Asarpota (“**Kusum**”) seeking a Succession Certificate to certain debts and securities said to belong to her late

husband, Bharat Ladharam Asarpota (“**Bharat**”) who died in Bahrain on 12th March 2009. He was survived by Kusum, their two sons Vinay and Aashish, and one Mira Ladharam Asarpota (“**Mira**”), Bharat’s mother. Mira herself died on 15th September 2012. Her share in Bharat’s estate devolved equally on Bharat’s heirs, he having predeceased her, and as also on her other two sons, Bharat’s brothers, Bhagwan and Govind, Respondents Nos. 1 and 2. The opposition to the succession certificate comes from Bhagwan and Govind.

3. The securities listed in the Petition are principally several fixed deposits and account with HSBC Mumbai and the Bank of Baroda. The opposition is that these securities or accounts did not belong to Bharat personally but were assets of a HUF of which the three brothers, among others, were members. The transfer of these funds to the account with HSBC Mumbai was from accounts previously held in other banks in Bahrain and elsewhere. Bhagwan and Govind claim to be able to trace the origins of these funds to HUF accounts or pool funds previously held by the HUF. Kusum does not accept this, and says through Ms. Bhatia that all the securities listed in the Petition stand in Bharat’s sole name.

4. Bhagwan and Govind have not so far filed any proceedings in respect of these accounts to assert title or to claim these accounts.

5. Both sides now agree that if Bhagwan and Govind file a suit in a Court of competent jurisdiction before 30th April 2017 asserting the title or right of the HUF to the securities, assets, funds and

monies that are the subject matter of the present Succession Certificate Petition, then, upon such suit being filed and served by that date, this Petition will stand dismissed without further reference to the Court, and the rival contentions as to these funds, assets, securities and monies will be decided in those civil proceedings brought by Bhagwan and Govind. If no such suit is filed by that date, the present Petition will stand made absolute in terms of the prayers at page 13 with a Succession Certificate being issued in respect of the items listed in the schedule to the Petition in favour of the heirs mentioned at Serial Nos. 1, 2, 3, 5 and 6 in paragraph 15 of the Petition.¹

6. The Petition is disposed of in these terms with no order as to costs.

(G. S. PATEL, J.)

¹ The heir at Sr No 4 was the deceased mother, Mira.