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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION NO. 121 OF 2016
IN
TESTAMENTARY SUIT NO. 128 OF 2015
IN
TESTAMENTARY PETITION NO. 1440 OF 2014**

Saviar Lonappan	...Plaintiff
<i>Versus</i>	
Annamma Margaret Simon	...Defendant
<i>And</i>	
Dnyaneshwar Nagar Raman CHS Ltd. & Others	...Respondents

Mr. G.N. Salunkhe, with Mr.J.S. Suryavanshi, for the Plaintiff.
Mr. Kalpesh J. Nansi, with Ms. Farhana Khan, for the Defendant.
Mr. Rahul Motkari, for Respondent No. 1.
Tamsin Monis, i/b ALJ & Partners, for Respondent No. 2.

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

PC:-

1. This is the Defendant's Notice of Motion. By consent, it is taken up for hearing and final disposal.

2. The Notice of Motion is not maintainable in view of the provisions of Section 269 of the Succession Act, 1925 and the

reported decision of this Court in *Rupali Mehta v Smt. Tina Narinder Sain Mehta*,¹ *Ramchandra Ganpatrao Hande alias Handege v Vithalrao Hande and Ors.*,² and *Manek Dara Sukhadwalla v Shernaz Faroukh Lawyer*.³

3. The Notice of Motion is dismissed as withdrawn with liberty to file an appropriate application for suitable reliefs on the same cause of action.

(G. S. PATEL, J.)

1 2006 (6) Bom.C.R. 778

2 2011 (4) Bom.C.R 326

3 Appeal (L) No. 7 of 2014 in Notice of Motion No. 138 of 2012 in Testamentary Suit No. 29 of 2012 in Probate Petition No. 341 of 2012, decided on 8th August 2014.