

JS/V

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO.1 OF 2016**

Devendra S/o. Leeladhar Garg	...Petitioner
<i>Versus</i>	
Late W/o. Hemant Garg & Ors.	...Respondents

**WITH
MISCELLANEOUS PETITION (L) NO.35 OF 2016
IN
TESTAMENTARY PETITION NO.722 OF 1998**

Smt. Omvati Wd/o. Late Liladhar K Garg & Ors.	...Petitioners
<i>Versus</i>	
Smt. Lata Hemant Garg w/o. Hemant L. Garg & Ors.	...Respondents

Mr. N.B. Khan, for the Petitioners.
Mr. Ashok Dhanuka, for the Respondents.

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

PC:-

1. It appears that the same Petitioner, one Mr. Devendra Leeladhar Garg, has filed Miscellaneous Petition No. 1 of 2016 seeking revocation of a probate granted on 16th April 2015 of the last Will and Testament dated 23rd February 1996 of one Late

Liladhar K. Garg in Petition No. 722 of 1998. Mr. Devendra Garg is Petitioner No.2 in a separate Miscellaneous Petition (L) No. 35 of 2016 along with two other Petitioners. It is not possible for one Petitioner to maintain two separate Petitions seeking the identical relief, for the challenge in Miscellaneous Petition (L) No.35 of 2016 is to the very same probate of the very same Will and in the very same Petition.

2. On the application of the learned Advocate for the Miscellaneous Petitioner, Miscellaneous Petition No.1 of 2016 is allowed to be withdrawn. This is without prejudice to the Petitioners' rights and contentions. Should the Petitioner seek to amend Miscellaneous Petition (L) No.35 of 2016 they are at liberty to move a formal Chamber Summons seeking that amendment. The application will have to be served on the Advocates for the Respondents.

3. Miscellaneous Petition (L.) No.35 of 2016 is ready for final hearing. Affidavits to the stage of Rejoinder have been filed. The learned Advocate for the Respondents seeks to file an Affidavit in Sur-Rejoinder. This is not permitted. Should it be required it will be taken on file on a later stage.

4. List the Miscellaneous Petition (L) No.35 of 2016 for hearing and final disposal on 10th June 2016.

(G. S. PATEL, J.)