

JSN

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION NO.174 OF 2016
IN
TESTAMENTARY SUIT NO.119 OF 2016
IN
TESTAMENTARY PETITION NO.1124 OF 2015**

Dr. Harpal Singh ...Applicant /
Plaintiff.

Versus

Ms. Deepti Singh (minor) ... Defendants

Mr. Cyrus Ardeshir, i/b Kanga and Company for the Plaintiff.
Mr. Raju Gupta, for the Defendant.
Mr. S.N. Fadia, for H.S.B.C. Bank.

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

PC:-

1. Heard. There is an Affidavit in Reply dated 6th August 2016 that has been served on the Advocates for the Plaintiff. The original Affidavit, which runs from pages 16 to 77, is taken on file. The statements in the Affidavits in Reply from paragraphs Nos. 12 to 14 are noted. Mr. Gupta for the Defendant / Caveator (represented through her Constituted Attorney) says that the Defendant has no

objection to Notice of Motion being made absolute in terms of prayer clauses (a) (i) and (ii).

2. As regards prayer clause (a)(iii), the statement made by the Constituted Attorney, Mr. Satyendra Kumar Raghav, that he will accept service of all papers and proceedings on behalf of the Defendant / Caveator is noted. Leave to Mr. Ardeshir for the Petitioner / Plaintiff to withdraw that relief with liberty to seek it at any further time upon making out sufficient cause.

3. The Notice of Motion is disposed in these terms.

4. All contentions as to possession of the flat in question are expressly kept open. Mr. Fadia, for HSBC, to whom the flat is mortgaged, states that he will furnish the Advocates for the Plaintiff the updated amount that is due as on 16th August 2016. From the sale of the flat, it is this amount that is required to be liquidated, together with any further charges up to the date of payment.

5. The Plaintiff will inform the Receiver within two days of this order being uploaded. The necessary documents for sale of the mortgaged flat will be executed by the Receiver.

(G. S. PATEL, J.)