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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION NO. 188 OF 2012
IN
TESTAMENTARY SUIT NO. 92 OF 2009
IN
TESTAMENTARY PETITION NO. 796 OF 2007

Ramlal Choithram Moorjani	...Plaintiff
<i>Versus</i>	
Shyam Choithram Moorjani	...Defendant

None for the Plaintiff.
Mr. Hariram Udayav, *for the Defendant.*

CORAM: G.S. PATEL, J
DATED: 28th November 2016

PC:-

1. Mr. A.H. Shah, the previous Commissioner passed away.
2. By consent, Mr. Bhupesh Dhumatkar is appointed Commissioner. The parties will proceed on the basis of the copies of the notes of evidence in their possession. The usual directions will operate:
 - (a) The Commissioner is at liberty to exercise discretion under Order XVIII Rule 4(4) of the Code of Civil

Procedure, 1908, to note the demeanour of the witnesses where necessary.

- (b) Further examination-in-chief of the witness is to be permitted before the Commissioner before cross-examination commences.
- (c) All further examination-in-chief and cross-examination shall be taken strictly in question and answer form.
- (d) The Commissioner will also be at liberty to direct that the whole or any part of the cross-examination should be video recorded for later reference of the court. Should that be done, the original audio visual recording will be submitted along with the Commissioner's Report to the Registry.
- (e) All re-examination will be conducted only in court.
- (f) Costs of the commission shall be borne as has been done in the past.
- (g) The Commissioner is not to permit any applications for adjournment on dates previously fixed, except where absolutely unavoidable. Counsel's inconvenience or unavailability does not constitute such unavoidability.
- (h) Liberty to the parties as also to the Commissioner to apply in case of difficulty.

3. The Notice of Motion is disposed of in these terms. All other issues will be taken up on the next date.

4. List the matter for directions on 13th January 2017.

(G. S. PATEL, J.)