

SHEPHALI

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION NO. 206 OF 2016
IN
TESTAMENTARY SUIT NO. 67 OF 2013
IN
TESTAMENTARY PETITION NO. 1550 of 2012**

Trevor Fernandes ...Plaintiff
Versus
Tyrone Peter Fernandes ...Defendant

Ms. Geeta Sonanwane, i/b Denzil D'Mello , for the Plaintiff.
None for the Applicant/Defendant.

CORAM: G.S. PATEL, J
DATED: 14th October 2016

PC:-

1. This Notice of Motion by the Defendant is thoroughly misconceived. It seeks to stay a probate Petition on the ground that there is pending partition Suit. In fact, the partition Suit cannot proceed till the present Suit is decided.
2. The Notice of Motion is dismissed with no order as to costs.

At 3.00 p.m.:

3. On the application of the learned Advocate for the Defendant, the order passed in the morning is recalled. The Notice of Motion is restored to file.

4. On instructions, the learned Advocate for the Defendant seeks leave to withdraw the Notice of Motion. Leave granted. The Notice of Motion is dismissed as withdrawn with no order as to costs.

(G. S. PATEL, J.)