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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY SUIT NO. 123 OF 2015
IN
TESTAMENTARY PETITION NO. 1751 OF 2013
WITH
CAVEAT NO. 164 OF 2015**

Virendra Singh Randhawa & Another	...Plaintiffs
<i>Versus</i>	
Praduman Singh Randhawa	...Defendant

Mr. Kishwar V. Mirza, *for the Plaintiffs.*
Mr. Alok D. Mishra, *for the Defendant.*

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

PC:-

1. The Suit is settled. Consent Terms are tendered. These are signed by both the Plaintiffs and the Defendant and their respective Advocates. All parties are present in Court. Annexed to the Consent Terms are, first, an Affidavit of the Defendant withdrawing his Caveat and consenting to the grant and, second, a Joint Affidavit of the two Plaintiffs. These two Affidavits are affirmed in Court by the Court Associate.

2. I have seen the Consent Terms. They are in order. I am satisfied that they are not contrary to law, have been drawn by the parties of their own volition in reflection of their true intentions. The Consent Terms are taken on record and marked “X” for identification. A copy of the Consent Terms is appended to this order for completeness.
3. The Suit is disposed of in accordance with the Consent Terms. No order as to costs. Drawn up decree/order dispensed with.
4. Refund of court fee, if any, in accordance with the Rules.
5. The parties are directed to take back the originals of the documents submitted by them upon those being substituted by true copies certified by the Advocates for the respective parties.
6. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J.)

MINUTES OF CONSENT TERMS

I. The Plaintiffs and the Defendants have amicably and mutually settled their Disputes out of Court and are desirous of filing the present Consent Terms in the above mentioned Testamentary Suit/Testamentary Petition and hereby record the same in writing.

II. The Plaintiffs and the Defendant mutually agree as under:-

a. The Plaintiffs No. 1 and 2 has agreed as under:-

- i.** to pay to the Defendant a sum of Rs. 3,30,00,000/- (Rupees Three Crore and Thirty Lakhs Only) to the Defendant/(Org. Caveator) towards full and final settlement of the Defendant's claim in the property of the deceased.
- ii.** The Plaintiffs No. 1 and 2 and their legal heirs hereby secures the rights of the Defendant to the extent of the said Rs. 3,30,00,000/- (Rupees Three Crores and Thirty Lakhs Only), by granting to the Defendant a right to reside the Flat No. 701, on the 7th Floor of Mamta Apartments, A.B. Nair Road, Juhu, Mumbai-400

049, as and when the Defendant and his family members visit Mumbai.

- iii. The Plaintiffs No.1 and 2 jointly or severally shall pay the said amount of Rs. 3,30,00,000/- (Rupees Three Crores and Thirty Lakhs Only), from the sale proceeds of the said Flat No. 701, on the 7th Floor of Mamta Apartments, A.B. Nair Road, Juhu, Mumbai – 400 049, as and when the same is sold;
 - iv. In the alternative and in the event, the Plaintiff No.1 and 2 are able to arrange/raise the said amount of Rs. 3,30,00,000/- (Rupees Three Crore and Thirty Lakhs Only), the Plaintiff No. 1 and 2 shall pay over the same to the Defendant No.1 and thereafter the Defendant No.1 shall automatically cease to have any claim of whatsoever nature in and over the said Flat No. 701, 7th Floor of Mamta Apartments, A.B. Nair Road, Juhu, Mumbai- 400 049, inclusive of the right to reside therein granted to the Defendant under the present Consent Terms;
- b. The Defendant hereby withdraws Caveat No. 164 of 2015, along with his Affidavit in Support thereof dated 29th June, 2015 filed by him in This Honourable Court in the present Testamentary

Suit/Testamentary Petition and also further hereby withdraws all the averments, allegations, contentions and submissions made by him therein.

- c. The Defendant hereby gives his consent for the Grant of Probate of the Last Will and Testament of the deceased Dara Singh Surat Singh Randhawa and has executed his Affidavit of Consent in favour of the Plaintiffs/(Org. Petitioners) in the present Testamentary Suit/Petition which is required for the Grant of Probate. Hereto annexed and marked EXHIBIT "A" is the said Affidavit of the Defendant/(Org. Caveator).
- d. The Plaintiffs and their siblings shall give their consent and sign and execute necessary documents for the purposes of transfer of the property standing in the name of deceased Dara Singh Surat Singh Randhawa situated in Punjab (except the Properties at Chandigarh and Mohali) in favour of the Defendant.
- e. The Plaintiffs No.1 and 2 hereby execute separate affidavit in support of their say and consent in favour of Defendant. Hereto annexed and marked EXHIBIT-"B" is the said Affidavit of the Plaintiffs.

- f.** Both the Plaintiffs and the Defendant mutually agree that except for the aforesaid terms and conditions neither of the parties their legal heirs and/or legal representatives shall have any claim/s against each other as they have mutually settled the same with regard to the properties of the deceased amongst themselves.
- g.** In the circumstances, the present Suit of the Plaintiff be decreed in favour of the Plaintiff and the Probate as prayed for be granted.
- h.** No Order as to costs.

Dated This 14th Day of December, 2016.

Plaintiff No.1

Advocate for Plaintiffs/Org. Petitioners
(Kishvar Mirza)

Plaintiff No.2

Advocate for Defendant/Org. Caveator
(Alok Mishra)

Defendant

EXHIBIT "A"

AFFIDAVIT

I, Praduman Singh Randhawa, age 70 years, an Indian Inhabitant residing at Dara Farm House, Village Sindhawali, Jangethi Road, Rohta Road, Merut Post Office, M.I.E.T Pin 250005 at present in Mumbai, the Defendant (Org Caveator) abovenamed do hereby state and declare on solemn affirmation as under:

1. I say that the plaintiffs have filed a Testamentary Petition No. 1751 of 2013 in which I filed caveat, pursuant to which the said Petition was converted into Testamentary Suit No. 123 of 2015.
2. I say that during the pendency of the said suit I have reached an out of court settlement with the Plaintiffs abovenamed and accordingly we have entered into consent terms.
3. I say that subject to the plaintiffs honouring the consent terms I am withdrawing Caveat No. 164 of 2015 along with my Affidavit in Support thereof dated 29th June 2016 filed by me in this Honourable Court in the present Testamentary Suit/Testamentary Petition and also further hereby withdraw all the averments, allegations, contentions and submissions made by me therein.

4. I further say that subject to the plaintiffs honouring the consent terms, I give my consent for the Grant of Probate of the Last Will and Testament of the deceased Dara Singh Surat Singh Randhawa in favour of the Plaintiffs.

Whatever stated therein is true and correct.

Solemnly affirmed at Mumbai)
On this 14th day of December, 2016.)

Deponent

Identified by me
(Alok Mshra)

Before me
M. Rawal, 14/12/2016
Associate, Bombay H.C.

EXHIBIT "B"

AFFIDAVIT

We, **Virendra Singh Randhawa**, age 49 years, an Indian Inhabitant residing at 601, Mamta Apartments, 6th Floor, A.B. Nair Road, Juhu, Mumbai 400 049 and **Amrik Singh Randhawa**, age 48 years residing at, House No. 543, Sector 8B, Chandigarh – 160 009 presently at Mumbai, the plaintiffs above named do hereby state and declare on solemn affirmation as under:

1. We say that we have filed Testamentary Petition No. 1751 of 2013, in the said Petition, the Defendant abovenamed had filed caveat in the said petition, pursuant to which, and the said Petition was converted into Testamentary Suit No. 123 of 2015.
2. We say that during the pendency of the said suit we have reached to an out of court settlement with the Defendant abovenamed and accordingly we have entered into consent terms.
3. We say that we will pay a sum of Rs. 3,30,00,000/- (Rs. Three Crore and Thirty Lakhs Only), to the Defendant/(Org. Caveator) towards full and final settlement of the Defendant's claim in the property of the deceased.
4. We say that we and our legal heirs hereby secures the rights of the Defendant to the extent of the said Rs. 3,30,00,000/- (Rupees Three Crores and Thirty Lakhs Only), by

granting to the Defendant unobstructed right to reside the Flat No. 701, on the 7th Floor of Mamta Apartments, A.B. Nair Road, Juhu, Mumbai – 400 049, as and when the Defendant and his family members visit Mumbai.

5. We say that we will jointly and severally pay the said amount of Rs. 3,30,00,000/- (Rupees Three Crores and Thirty Lakhs Only), from the sale proceeds of the said Flat No. 701, on the 7th Floor of Mamta Apartments, A.B. Nair Road, Juhu, Mumbai – 400 049, as and when the same is sold;

6. We say that in the alternative and in the event, if we are able to arrange/raise the said amount of Rs. 3,30,00,000/- (Rupees Three Crores and Thirty Lakhs Only), we shall pay over the same to the Defendant and thereafter the Defendant shall automatically cease to have any claim of a whatsoever nature in and over the said Flat No. 701, 7th Floor of Mamta Apartments, A.B. Nair Road, Juhu, Mumbai – 400 049, inclusive of the right to reside therein granted to the Defendant under the present Consent Terms.

Whatever stated therein is true and correct.

	(1) sd/-
Solemnly affirmed at Mumbai.	) (2) sd/-
On this 14th day of December, 2016.	) Deponent.

	Both before me.
Identified by me,	M. Rawal 14/12/2016
	Associate Bombay HC

Kishwar V. Mirza
Advocate for the Plaintiffs/Org Petitioners