

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***T. & I. J.*****TESTAMENTARY SUIT NO. 59 OF 2008****WITH****CHAMBER ORDER NO. 424 OF 2016****IN****TESTAMENTARY PETITION NO. 1030 OF 2007****Mahesh Mithalal Trivedi****..... Plaintiff****VERSUS****Dinesh Jethalal Soni & Anr.****..... Defendants****ALONGWITH****TESTAMENTARY SUIT NO. 94 OF 2011****WITH****CHAMBER ORDER NO.426 OF 2016****IN****TESTAMENTARY PETITION NO. 401 OF 2011****Mukesh Banshilal Shah****..... Plaintiff****VERSUS****Mahesh M. Trivedi****..... Defendant**

Mr.N.R.Gandhi for the Plaintiff in TS/59/2008 and for the Defendant in TS/94/2011.

Mr.J.S.Kini, i/b. Mr.Suresh Dubey for the Plaintiff in TS/94/2011.

Mr.Suresh Kantilal Vaaya, Defendant no.2 present in person.

CORAM : R.D. DHANUKA, J.**DATE : 25th JULY, 2017****P.C.**

The defendant no.2 has expired in the year 2016. Mr.Suresh Kantilal Vaaya, one of the legal heir is present in court and states that he has no objection if all the

legal heirs of the original defendant no.2 are brought on record and if abatement of suit if any, against the defendant no.2 is set aside. Statement is accepted. The abatement of Testamentary Suit No. 94 of 2011 if any, against the defendant no.2 is set aside.

2. Leave to amend is granted to bring the legal heirs of the defendant no.2 who are already impleaded in Suit No. 59 of 2008. Amendment to be carried out within one week from today.

3. Mr.Suresh Kantilal Vaaya undertakes to file affidavit of evidence on behalf of himself and other legal heirs along with documents within one week from today and shall serve a copy thereof upon the plaintiff's advocate simultaneously. It is made clear that no further extension would be granted.

4. The plaintiff shall file statement of admission ad denial in respect of the documents of the newly added parties within one week from the date of receipt of compilation of the documents and shall serve a copy thereof upon the defendants' advocate simultaneously.

5. Place the Testamentary Suit No.94 of 2011 on board for marking of the documents on **16th August, 2017.**

(R.D.DHANUKA, J.)