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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO.25 OF 2016
IN
MISCELLANEOUS PETITION NO.74 OF 1998
IN
TESTAMENTARY PETITION.653 OF 1990**

Mrs. Bhartiben D. Goragandhi	...Petitioner
<i>Versus</i>	
Jayesh D. Goragandhi & Ors.	...Respondents

Mrs. Varsha Palav, for the Petitioner.
None for the Respondents.

CORAM: G.S. PATEL, J
DATED: 20th June 2016

PC:-

1. The application is by the Petitioner for recasting some of the issues that were framed on 1st December 2015. Mrs. Palav points out that it is not her case that there was any question of coercion and Issue No. 3 as framed requires, therefore, to be re-framed. In this, she is correct because the burden of proof of that undoubtedly fall on her. She says that there are issues of forgery and fabrication, which need to be placed, as also the question of whether the

citations in the original probate Petition were ever duly served on Respondents Nos. 2 and 3.

2. The Chamber Summons is, therefore, disposed of by framing the issues that are appended to this order.

3. The Petitioner in the revocation Petition shall now, on or before 15th July 2016, file (i) the evidence affidavit of the Petitioner; (ii) an affidavit of documents; and (iii) a compilation of documents duly indexed and paginated. Copies of each of these will be served on the Advocates for the Respondents on or before that date.

4. Petition to be listed for directions on 22nd July 2016. If these directions have not been complied with by then, the Petition will be dismissed on that date. On compliance with these directions as to filing, the matter will be taken up for marking of the Petitioner's documents and further directions on that day, the fact that it may be listed for directions on that date notwithstanding.

(G. S. PATEL, J.)

ISSUES RECASTED ON - 20TH JUNE 2016
MISCELLANEOUS PETITION NO.74 OF 1998
IN
TESTAMENTARY PETITION.653 OF 1990

1. Whether the Petitioner proves that the Petition is maintainable under Section 263 of the Hindu Succession Act?
2. Whether the Petitioner proves that the mental faculties of the Petitioner were affected by the death of her husband to the extent that she was under psychiatric treatment and was not in a position to understand the nature of the documents that she signed or their effect?
3. Whether the Respondents prove that the Will dated 20th June 1990 was duly and validly executed and attested in accordance with law?
4. Whether the Respondents prove that at the time of the said alleged Will, the deceased was of sound and disposing state of mind, memory and understanding?
5. Whether the Petitioner proves that the alleged Will was procured by misrepresentation?
6. Whether the Petitioner proves that the alleged Will is a forgery and fabrication?
7. Whether the Petitioner proves that the 1st Respondent in collusion *inter alia* with Respondent No. 4 obtained signatures of the

Petitioners by misrepresentation, fraud, coercion and fraudulent intent?

8. Whether the Respondents prove that citations in probate Petition No. 653 of 1990 were duly served on Respondents Nos. 2 and 3?
9. Whether the Petitioner proves that the Affidavit-cum-Declaration by Respondents Nos. 2 and 3 was obtained by Respondents Nos. 1 and 4 by misrepresentation and coercion?
10. Whether the grant of probate in probate Petition No. 653 of 1990 is liable to be recalled?
11. What reliefs and what orders?

(G. S. PATEL, J.)