

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

NOTICE OF MOTION NO.202 OF 2012

**IN
SUIT NO.161 OF 2012**

Apurva C. ShahApplicant/Plaintiff

V/s.

Jagesh C. Shah and Anr.Defendants

Mr. Farhan Dubash a/w. Mr. Mohit Arora i/b. RES Legal for the applicant/plaintiff.

Mr. Arif Bookwala, senior advocate a/w. Mr. Niranjana Vaghela for the defendant no.1.

CORAM : K.R.SHRIRAM,J

DATE : 9th JANUARY, 2017

P.C.:-

1 The plaintiff and the defendant no.1 are the sons of the deceased and defendant no.2 is their mother and wife of the deceased. The deceased has left behind him a Will for which Probate Petition was filed being Probate Petition No.301 of 1984. The plaintiff has consented for granting of Probate and the consent affidavit for grant of Probate has been filed by the plaintiff and defendant no.2 herein. Though it is almost 31 years since then, the Probate has not been granted.

2 Mr. Bookwala, senior counsel for the defendant no.1, on instructions states that there was a delay because there was some

difficulty in paying the estate duty and now all those hurdles have been crossed. Mr. Bookwala further states that within four weeks from today the defendant no.1 will move for grant of Probate. Mr. Bookwala states that his instructions are that Desai and Diwanji, who had filed Vakalatnama in the Probate Petition for the petitioner are still on record.

3 Mr. Dubash, counsel for the plaintiff states that they have already been taken discharge. Mr. Dubash further states that he has no objection if Pandya and Co., who are appearing for the defendant no.1 in this suit files Vakalatnama in the Probate Petition for the petitioner and proceed further in applying for grant of Probate.

4 Mr. Bookwala states that in view of the statement made by Mr. Dubash, Pandya and Co. will file their Vakalatnama within one week from today and also take steps for grant of Probate.

5 The registry to accept the Vakalatnama being filed by Pandya and Co.

6 In view of the above, Mr. Dubash states that this notice of motion can be disposed of with liberty to take out a fresh notice of motion, should the need arise.

7 The notice of motion accordingly stands disposed with the liberty as sought.

(K.R.SHRIRAM,J)