

Amk

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

**NOTICE OF MOTION NO. 34 OF 2017
IN
TESTAMENTARY SUIT NO. 63 OF 2016
IN
TESTAMENTARY PETITION NO. 2023 OF 2015**

Advait Nandkumar Gupte .. Applicant

In the matter between

Advait Nandkumar Gupte .. Petitioner

Vs.

Subodh Mody .. Respondent

Mr. Sachin J. Kadam a/w. Ms. Yogini Ghawale for the Petitioner/Applicant.
Mr. Devendra Sharma for the Respondent.

CORAM : S. C. GUPTA, J.
DATE : 20th NOVEMBER, 2017.

P. C. :

1. Heard learned counsel for the parties.
2. This Notice of Motion is taken out by the original petitioner for Letters of Administration with the Will annexed. The respondent/caveator is an agreement purchaser, who claims to have entered into an agreement for purchase of the suit property from the deceased. There is already a suit filed by the deceased against this respondent praying for a decree of cancellation of the agreement for sale. The respondent has filed his counter-claim in that suit praying for specific performance. The respondent claims to be in possession of the suit property. He also claims

to have fully paid the consideration. For none of these reasons the respondent can be said to be having caveatable interest in respect of the property of the deceased.

3. Accordingly, the Notice of Motion is allowed in terms of prayer clauses (a) and (b). All rights and contentions of the parties on merits are kept open.

[S. C. GUPTE, J.]