

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION**

**NOTICE OF MOTION NO. 26 OF 2017
IN
TESTAMENTARY PETITION NO. 499 OF 2015
IN
TESTAMENTARY SUIT NO. 154 OF 2015**

Sanjiv Purshottam Anavkar	...Applicant/Petitioner
Vs.	
Rajiv Purshottam Anavkar	...Respondent/Caveator

Mr.Sanjiv A. Sawant with Abhishek Deshmukh for Applicant.
Mr.B.G. Saraf for Caveator.

CORAM : S.C. GUPTE, J.

DATE : 15 NOVEMBER 2017

P.C. :

The notice of motion seeks appointment of an Administrator in respect of a certain residential flat, which forms part of the estate of the deceased and which, according to the Applicant (original Petitioner), is exclusively occupied by the Respondent/Caveator, prejudicially to the Applicant's rights.

2 Learned Counsel for the Respondent states, on instructions from his client, that the Respondent shall not create any third party rights or change the name of the flat or part with possession of the same in favour of any third party pending the hearing and final disposal of the testamentary suit.

3 On the facts of the case, as borne out by the record, this undertaking adequately protects the interest of the Petitioner and there is

no case for appointment of an administrator *pendente lite* of the suit flat. The notice of motion is disposed of accordingly after accepting the statement of learned Counsel for the Respondent. No order as to costs.

4 At the request of both the parties, the hearing of the testamentary suits is expedited.

5 Testamentary Suit No.211/2016 shall be heard first, since the Plaintiff in this suit sets up a rival will of the same deceased but of a later date. Parties to complete discovery and inspection *inter alia* by filing their respective affidavits within four weeks from today.

6 The suits to come up for framing of issues on 15 December 2017.

(S.C. GUPTE, J.)