

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***T. & I. J.*****MISCELLANEOUS PETITION NO. 67 OF 2017****IN****PROBATE PETITION NO. 1210 OF 2015****ALONGWITH****NOTICE OF MOTION NO. 112 OF 2017****IN****MISCELLANEOUS PETITION NO. 67 OF 2017****IN****PROBATE PETITION NO. 1210 OF 2015****Chandan Ram Sumaya****..... Petitioner****VERSUS****Ram Udham Sumaya****.... Respondent**

Mr.Karl Tamboly, a/w. Ms.Swapna Roopavate, i/b. Mr.Tushar Goradia for the Petitioner.

Mr.Manoj Prajapati, i/b. Mr.Prashant Goyal for the Respondent.

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

By this petition filed under section 263 of the Indian Succession Act, 1925, the petitioner seeks revocation of the probate granted by this court on 27th February, 2017 on various grounds. The petitioner claims interest in one of the property i.e. Flat No.E-504 admeasuring about 400 sq.ft., 5th Floor, Simla House, Neapeansea Road, Mumbai 400 036. On the other hand, it is the case of the original petitioner in Probate No.1210 of 2015 that the said property belonged to the deceased father Mr.Udharam Sumaya.

2. It is made clear that by granting probate of the Will of Mr.Udharam Sumaya, this court has not decided the title of the deceased in respect of the said property in question. Both the parties will have to file appropriate suit for declaration of their respective title in respect of the property in question. The respondent herein cannot claim ownership in respect of the said property on the basis of the probate granted by this court on 27th February,2017.

3. In view of the aforesaid order, Mr.Tamboly, learned counsel for the petitioner seeks liberty to withdraw this petition. Petition is allowed to be withdrawn. No order as to costs.

4. In view of disposal of the Miscellaneous Petition No.67 of 2017, Notice of Motion No.112 of 2017 does not survive and is accordingly disposed of. No order as to costs.

(R.D.DHANUKA, J.)