

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (L) NO. 36 OF 2017
IN
NOTICE OF MOTION NO. 132 OF 2015
WITH
TESTAMENTARY SUIT NO. 91 OF 2015
IN
TESTAMENTARY PETITION NO.96 OF 2013

Pushpa Vinod Salvi	...Petitioner
<i>Versus</i>	
Titus Tanaji Shivaji Dolas	...Respondent

Mrs Prachi Khandke, *i/b MP Vashi & Associates for the
Plaintiff/Petitioner, Pushpa Salvi, Respondent in NMT
No.132/2015.*

Mrs Indrayani M Koparkar, *for the Titus Dolas, the
Defendant/Respondent and the Applicant in NMT No.132/15*

Mrs Pushpa V Salvi, *Plaintiff-Petitioner present.*

Mr Titus T Dolas, *Defendant-Respondent present*

CORAM: G.S. PATEL, J
DATED: 26th July 2017

PC:-

1. Ms Khandke appears for the original plaintiff Pushpa Salvi. She is the Respondent in Motion No.132 of 2015. Ms Koparkar

appears for the original defendant, Titus Dolas, the applicant in Notice of Motion 132 of 2015.

2. Titus Dolas was married to one Ruth Dolas, Pushpa Salvi's sister. Pushpa Salvi and Titus Dolas are both present in Court.

3. Ms Khandke says she has from Pushpa Salvi to withdraw the Testamentary Petition No.96 of 2013 seeking Letters of Administration with Will annexed in respect of an alleged Will of Ruth Titus Dolas. Ms Khandke has proceeded on the footing that under the amended provisions of Section 213 of the Indian Succession Act, probate to a Will by an Indian Christian is not compulsory even if the Will is made in Mumbai or relates to property in Mumbai.

4. The reason given is that Pushpa Salvi does not have the means to bring back to Court the amount of Rs.9,51,970/- that she withdrew from the deceased's benefit accounts with JJ Hospital, where the deceased was working; or to bring back any of the other amounts that she may have withdrawn. Pushpa Salvi has also given on leave and licence the residential flat that stood in the name of the Ruth Dolas.

5. Ms Koparkar for Titus Dolas confirms that he has not filed any independent proceedings of his own in respect of the estate of his wife Ruth Dolas.

6. Ms Khandke agrees that Pushpa Salvi will not renew the Leave and License Agreement in respect of the flat in question without two weeks' advance intimation to Titus Dolas; and will not enter into any fresh Leave and Licence Agreement or transfer, alienate or create any third party rights or part with juridical possession of flat in question, Flat No.15/C, 5th floor, Jivan Jyot Apartments, Kansai, Bhide Wadi, Ambernath (East), District Thane, without leave of the Court obtained after at least six weeks' prior notice to Titus Dolas.

7. This order in respect of the flat will continue for a period of three months from today. Within that time, Titus Dolas must file appropriate proceedings and obtain an order in those proceedings confirming, continuing or extending this order in respect of the Jivan Jyot Apartments. As regards Pushpa's failure to bring into court the amounts she withdrew to herself from the deceased's estate despite an order of 27th September 2016, it will be open to Titus Dolas to file such proceedings in that regard as he may be advised.

8. No further orders are require at this stage.

9. The testamentary petition is dismissed as withdrawn. The testamentary suit therefore does not survive and is also dismissed. Consequently Notice of Motion No.132 of 2015 and Notice of Motion (L) No.36 of 2017 are both infructuous and are disposed of.

10. Liberty to Pushpa Salvi to make an appropriate application in an appropriate proceedings in regard to the estate of Ruth Dolas. All contentions are left open on both sides.

(G. S. PATEL, J.)