

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

NOTICE OF MOTION NO.238 OF 2016

IN

TESTAMENTARY SUIT NO.221 OF 2015

IN

TESTAMENTARY PETITION NO.459 OF 2015

Sharad Vishnu Vartak and Ors.Applicants/Plaintiffs

Vs.

Mrs. Rhuta Shriram VaidyaDefendant/Caveator

Mr. B.A. Vora for applicants/plaintiffs.

Mr. Bhalchandra Govind Saraf for defendant/caveator.

CORAM : K.R.SHRIRAM, J.

DATE : 5th APRIL, 2017

P.C.:

1 Mr. Saraf, counsel for defendant states that the prayer clauses – (a) and (b) as sought in the notice of motion could be granted. At the same time, Mr. Saraf states that the license fee should be deposited by the plaintiffs with the Prothonotary and Senior Master, High Court, Bombay.

2 Mr. Vora, counsel for plaintiffs states that the plaintiffs should be permitted to use the license fee to pay the society dues and also keep atleast 10% aside for the maintenance of the flat mentioned in prayer clause – (a) of the notice of motion. Mr. Vora further states that the plaintiffs will render account once in six months to the defendant.

3 In my view, it is a very fair suggestion coming from both the parties. Therefore, the notice of motion is allowed and accordingly

disposed in terms of prayer clause – (a).

4 The security deposit that may be received from the licensee to be deposited by the plaintiffs with the Prothonotary and Senior Master, High Court, Bombay, who shall invest the same in fixed deposit with a nationalised bank for the period of the license. So far as license fee is concerned, the plaintiffs shall deduct the amount payable to the society towards monthly dues. In addition thereto, the plaintiffs may retain 10% of the license fee to be utilised for maintenance of the flat. The balance amount to be deposited with the Prothonotary and Senior Master, High Court, Bombay.

5 The Prothonotary and Senior Master to invest the amount deposited from the license fee in a fixed deposited with a nationalised bank once the amount totals to Rs.50,000/-. To clarify, for example, if the license fee received totals to Rs.54,000/-, the Prothonotary and Senior Master will deposit Rs.50,000/- and when the further deposit adds upto Rs.50,000/-, he will invest another Rs.50,000/-. The plaintiffs shall also render account to the defendant once in six months on the license fee received and expenses incurred.

(K.R. SHRIRAM, J.)