

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

**NOTICE OF MOTION NO.57 OF 2013  
IN  
SUIT NO.7 OF 2013**

Jaykumar J. Giyanani ....Plaintiff

V/s.

Dilip J. Giyanani and Ors. ....Defendants

**TESTAMENTARY AND INTESTATE JURISDICTON**

**TESTAMENTARY SUIT NO.61 OF 2012  
IN  
TESTAMENTARY PETITION NO.748 OF 2011**

Jaykumar J. Giyanani ....Plaintiff

V/s.

Chandra J. Giyanani alias  
Vanita S. Peswani and Anr. ....Defendants

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Mr. Agnel Carriero i/b. Mulla and Mulla and CBC for the plaintiff in both the suits.

Mr. Jaykumar Jamnadas Giyanani, plaintiff in both the suits present in person.

Ms. Namita Shirke i/b. Mr. Charanjeet Chanderpal for the defendant no.1 in S/7/2013 and for the defendant no.2 in TS/61/2012.

Mr. J.M. D'silva for the defendant no.4.

Mr. Farid Karachiwala a/w. Mr. Sahil Saiyad and Mr. Nikhil Apte i/b. Wadia Ghandy and Co.

Ms. Seema Dilip Giyanani, wife of defendant no.1 and Ms. Karishma Dau alias Pushpa J. Giyanani, defendant no.4 present.

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**CORAM : K.R.SHRIRAM,J**

**DATE : 17<sup>th</sup> JANUARY, 2017**

**P.C.:-**

1           The counsel appearing for the parties state that there were mediation proceedings going on between the family members of the warring faction before one Mr. Mohan Gurnani. When the mediation process was on, a criminal appeal came to be filed by defendant no.1 in the Supreme Court being Criminal Appeal No.1166 of 2015. As recorded in the order dated 7<sup>th</sup> September, 2015 of the Supreme Court, consent terms were entered into between the petitioner, respondent no.3 and others in full and final settlement of all disputes in the Supreme Court. The order dated 7<sup>th</sup> September, 2015 of the Supreme Court is taken on record and marked 'X' for identification.

2           The petitioner before the Supreme Court is defendant no.1 in this suit, the respondent no.3 before the Supreme Court is the plaintiff in this suit and the respondent nos.5,6 and 7 before the Supreme Court are defendant nos.2,3 and 4 in this suit. By the said order dated 7<sup>th</sup> September, 2015 all disputes between the parties were put to an end and parties had given various undertakings to the court to withdraw various proceedings. Though respondent nos.5 to 12 were added as parties in the proceedings before the Supreme Court, it is stated that they were not signatories to the consent terms.

3           In view thereof, the parties agreed that each of these eight individuals, who were joined as respondent nos.5 to 12 in the said Criminal Appeal would file an affidavit of confirmation agreeing to be bound by the consent terms.

4           Mr. Karachiwala, a partner of Wadia Ghandy and Company Advocates and Solicitors, who was appointed as the advocate/advisor to the Mediator states that the Mediator had handed over to him all the eight affidavits with instructions not to hand it over to any party or even provide photocopies thereof. Mr. Karachiwala further submitted that it was for that reason he did not respond positively to a letter received from the advocate Mr. D'silva on behalf of defendant no.4 in this administration suit. The parties who are present before this court and Mr. Karachiwala request that these eight affidavits be taken on record in this proceedings and the present suit be disposed.

5           Therefore, the eight affidavits are taken on record and marked "X-1 to X-8" for identification.

6           Should any party, i.e., party to this suit and those who have filed the eight affidavits, need a photocopy of his/her affidavit, he/she may apply to the registry and the registry to provide a photocopy of

only that applicant's affidavit subject to payment of photocopying charges. It is clarified that the registry will not provide copies of any other affidavit.

7           In view of the above, the suit accordingly stands disposed. Refund, if any, of court fees in accordance with rules. All interim applications stand disposed and all interim orders also stand vacated.

**TESTAMENTARY SUIT NO.61 OF 2012**

1           In view of the above, the Will stands probated. The probated Will also to factor in the contents of paragraph 6 of the consent terms as recorded in the order dated 7<sup>th</sup> September, 2015 passed by the Supreme Court of India in Criminal Appeal No.1166 of 2015.

2           By consent, the Probate be granted as per the last Will and Testament dated 5<sup>th</sup> July, 1990 of late Jamnadas Pahilajrai Giyanani in favour of the plaintiff – Mr. Jaykumar Jamnadas Giyanani and defendant no.1- Mr. Dilip Jamnadas Giyanani.

**(K.R.SHRIRAM,J)**