

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTON
CHAMBER SUMMONS NO.565 OF 2013
WITH
NOTICE OF MOTION NO.635 OF 2012
WITH
CHAMBER SUMMONS NO.660 OF 2013
IN
SUIT NO.2956 OF 2000**

Bipin S. DalalPlaintiff

V/s.

Mahendra S. Dalal and Ors.Defendants

**TESTAMENTARY AND INTESTATE JURISDICTON
TESTAMENTARY SUIT NO.44 OF 2005
IN
TESTAMENTARY PETITION NO.653 OF 2001**

Mahendra S. Dalal and Ors.Plaintiffs

V/s.

Bipin S. DalalDefendant

Mr. Ankit Lohia a/w. Mr. Tushar A. Goradia for the plaintiff/applicant to the chamber summons no.565 of 2013 in Suit and for Caveator in Testamentary Suit.

Mr. Viral Shukla a/w. Ms. Priti Patel i/b. Shukla and Shukla for the defendants in Suit and for the plaintiffs in Testamentary Suit.

Mr. Chirag Mody i/b. Ashok Purohit and Co. for the respondent no.9.

**CORAM : K.R.SHRIRAM,J
DATE : 12th JANUARY, 2017**

P.C.:-

CHAMBER SUMMONS NO.565 OF 2013

1 The counsel for the plaintiff states that after this chamber summons was taken out the Society has permitted the plaintiff to

carry out necessary repairs to the suit flat. The counsel for the plaintiff further states that this chamber summons had to be taken out because earlier the Society had not permitted the plaintiff to carry out necessary repairs. The counsel for the plaintiff states that in view of the Society having agreed to permit the plaintiff to carry out necessary repairs to the suit flat, the chamber summons be dismissed as withdrawn.

2 Therefore, the chamber summons is dismissed as withdrawn.

TESTAMENTARY SUIT NO.44 OF 2005

1 Mr. Lohia, counsel appearing for the Caveator, who is now the defendant, raises a grievance that despite specific directions to the plaintiffs they have not filed the evidence of the second witness because of which the suit is not progressing further. Mr. Lohia points out that the evidence of the first witness was concluded almost 1 year ago.

2 Mr. Shukla, counsel appearing for the plaintiffs states that the second witness of the plaintiffs, who is a practicing advocate and due to advance age is unwell and the ailment is such that he is unable to come into contact with anybody else. Mr. Shukla further states that

the affidavit of evidence is affirmed and he will provide a copy of the affidavit of evidence together with compilation of documents to the defendant during the course of today. Mr. Shukla requests that the matter be placed on board on 13th February, 2017.

3 Therefore, stand over to 13th February, 2017 for receiving the evidence/documents on record on which date the plaintiffs' witness to remain present in court. Within two weeks from today, the plaintiffs also to file and serve a copy of their list of witnesses to the defendant.

(K.R.SHRIRAM,J)