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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

TESTAMENTARY SUIT NO.177 OF 2016

IN

TESTAMENTARY PETITION NO.395 OF 2016

IN

CTS NO.240 OF 2016

Herkishin Kishore Shankerdas Mahboobani ...Plaintiff

vs

Amar Shankerdas MahboobaniDefendant

....

Mr. Farhan Dubash, Counsel, a/w. Ms. Viloma Shah, i/b. Hariani & Co.,
for the Plaintiff.

Mr. Ishan Gambhir, i/b. Dave & Co., for Defendant/Caveator.

....

CORAM : S.C. GUPTE, J.

DATED: 5 OCTOBER, 2017

P.C. :

. This testamentary petition is for probate of the last will and testament dated 23 August 2005 of deceased Savitri Shankerdas Mahboobani.

2. The Plaintiff is the son of the deceased and the sole executor named in the last will and testament of the deceased. The surviving heirs and next of kin, according to the law of succession applicable to the deceased, are the husband of the deceased, two sons, including the Plaintiff herein, and three daughters, all of whom are listed in paragraph

9 of the petition. The other son of the deceased, namely, Amar Shankerdas Mahboobani, appearing at Sr. No.3 of this list, has filed a caveat opposing the grant of probate along with an affidavit in support of the caveat. The testamentary petition is converted into a testamentary suit.

3. Learned Counsel for all other legal heirs and next of kin listed in paragraph 9 of the petition have affirmed consent affidavits which form part of the petition. Learned Counsel appearing for the caveator - Amar Shankerdas Mahboobani seeks leave to withdraw the caveat and agrees to grant of probate in favour of the Plaintiff. The caveator is, accordingly, permitted to withdraw the caveat. The testamentary suit is decreed by granting probate in terms of the prayer.

4. Drawing up of decree is expedited.

(S.C. GUPTE, J.)