

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ESTAMENTARY & INTESTATE JURISDICTION

CHAMBER SUMMONS NO.4 OF 2017**IN****TESTAMENTARY SUIT NO.1 OF 2014****IN****TESTAMENTARY PETITION NO.1203 OF 2013**

Mrs.Sunali Roopkumar RathodApplicant

IN THE MATTER BETWEEN :

Dr.Mahesh Balsekar & Anr.Plaintiffs

V/s.

Sameer ShethDefendant

Mr.Shyam Dewari a/w Mr.Pushkraj S.D. for plaintiffs/applicants.

Mr.Ashish Rao a/w Mr.Shardul Singh i/by Robin George for the defendant.

CORAM : K.R.SHRIRAM,J**DATE : 27.2.2017****P.C.:-**

1 This chamber summons is taken out on behalf of plaintiff no.1 to accept the renunciation of plaintiff no.1 Dr.Mahesh Balsekar as the executor in view of his professional commitment. Plaintiff no.1 is a doctor by profession.

2 The counsel appearing for the defendant is strongly opposing the grant of relief sought in this chamber summons. According to the counsel the Will says that the executor should act

jointly and therefore, the court cannot permit one of the executor to renounce the executorship.

3 A similar situation arose in the matter of ¹**Gopal L.Raheja Vs.Sandeep Gopal Raheja & Ors.**, where the court in its judgment pronounced on 30.4.2016 dealt with a similar situation.

4 The court held, the requirement of law for executor to act jointly applies to those who have accepted, or at any rate, to those who have not explicitly or by necessary implication renounced executorship appears to me to be the correct, logical and equitable approach in such matters.

5 In the circumstances, chamber summons is allowed in terms of prayer clauses-(a) and (b). Amendment to be carried out and amended plaint to be served within 3 weeks.

6 Stand over to 20.3.2017 for marking of documents/receiving evidence of defendants on record on which date defendant's witness shall remain present in court.

(K.R.SHRIRAM,J)

1 Chamber Summons No.708/2014 in Suit No.2363/2012 decided on 30.4.2016