

psv

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

**APPEAL (L.) NO.250 OF 2018
IN
NOTICE OF MOTION (L.) NO.23 OF 2018
IN
MISCELLANEOUS PETITION NO.49 OF 2016
IN
TESTAMENTARY PETITION NO.196 OF 2009
WITH
NOTICE OF MOTION (STAMP) NO.513 OF 2018**

Omprakash Changoiwala & Anr.	...Appellants
Vs.	
Vishal Usha Kejriwal	...Respondent

Ms.Swati Sagvekar for appellants.
Mrs.Veena Thadani with Mr.Vishal Thadani, Ms.Priyanka Raul and
Ms.Chaitali Gosavi for Respondent.

**CORAM : NARESH H. PATIL AND
G.S. KULKARNI, JJ.**

DATE : 11th JUNE 2018

P.C.:

The appeal impugns the order passed by the learned Single Judge on 3rd May 2018. The learned Counsel appearing for the respondent, on instructions, consents and states that a preliminary issue of limitation needs to be framed and addressed first in accordance with the order passed by this Court on 16th March 2018. The learned Counsel

appearing for the appellants too consents for such arrangement. Both the learned Counsel pray that appeal be disposed of accordingly.

2. In view of the statement made above and in view of the order passed by this Court on 16th March 2018, we are of the view that preliminary issue of limitation needs to be framed and decided first. The learned Single Judge would first frame the preliminary issue of limitation and decide the same in accordance with law. We do not express any opinion on merits. In the light of the same, the impugned order passed by the learned Single Judge on 3rd May 2018 stands quashed and set aside. After the issue of limitation is decided, the learned Single Judge would issue fresh direction, if necessary.

3. The appeal is disposed of accordingly.

4. In view of disposal of the appeal, notice of motion (stamp) No.513 of 2018 does not survive. It is disposed of accordingly.

[G.S. KULKARNI, J.]

[NARESH H. PATIL, J.]