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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY SUIT NO. 82 OF 2013
IN
TESTAMENTARY PETITION NO. 99 OF 2013**

Anil D Parab & Ors ...Plaintiffs
Versus
Jayadev Bal Thackeray ...Defendant

**WITH
NOTICE OF MOTION (L) NO. 271 OF 2018
IN
TESTAMENTARY SUIT NO. 82 OF 2013
IN
TESTAMENTARY PETITION NO. 99 OF 2013**

Jayadev Bal Thackeray ...Applicant
In the matter between
Anil D Parab & Ors ...Plaintiffs
Versus
Jayadev Bal Thackeray ...Defendant

**Mr Rohit Kapadia, Senior Advocate, with Mr Rajesh Shah & Mr
Atul Daga, i/b Kanga & Company, for the Plaintiffs.
Ms Seema Sarnaik, with Mr Dushyant Purekar, Mr Ameya Tamhane
and Mr Christine Wilson, for the Defendant and the Applicant in
the Notice of Motion.**

CORAM: G.S. PATEL, J
DATED: 2nd November 2018

PC:-

1. Ms Sarnaik for the Defendant tenders a draft Notice of Motion. This will be lodged and registered in the course of the day. A copy was served on the Advocates for the Plaintiffs on 31st October 2018. When the matter was mentioned yesterday I had it placed today.
2. The 1st Petitioner is present in Court, as is the spouse of the Defendant.
3. The Notice of Motion itself is taken up for hearing and final disposal by consent. Prayer clause (a) of the Notice of Motion seeks that the sole Defendant's Caveat in the Testamentary Petition be "disposed of". This requires some explanation. The matter has been in trial, the Petition for Probate of the last Will and Testament of the late Balasaheb Thackeray being contested by one of his sons, Jayadev. It was renumbered as Testamentary Suit No. 82 of 2013. The Plaintiffs completed their evidence. The Defendant led the evidence of several witnesses including the 1st Defendant and other witnesses to whom summonses were issued. The Defendant's evidence was not completed. It is at this stage that the present Notice of Motion comes to be filed.
4. The Affidavit in Support of the Notice of Motion indicates that the Defendant seeks that the matter be closed i.e. his opposition

to the Probate be treated as “closed”. I use this word because in paragraph 3 of the Affidavit in Support the Defendant makes it clear that he is not ‘withdrawing’ or ‘taking ’ack’ his Caveat. He is not seeking a dismissal of his Caveat. He is simply no longer pursuing his opposition to the Petition.

5. Whatever be the wording of the Affidavit in Support, the consequence in law is only one. On the basis of the prayer in the Notice of Motion and the statements made in the Affidavit in Support of the Notice of Motion, the Caveat will have to stand discharged.

6. The Caveat is discharged. It is made clear that the rival contentions on merits have not been adjudicated as the trial was never completed in the matter.

7. Accordingly, the Petition will now proceed departmentally, uncontested, to the grant of a Probate. The Registry is directed not to raise any further requisitions as regards service of citations or other aspect. The Registry will ensure that Probate is issued no later than 26th November 2018.

8. At Ms Sarnaik’s request the original letter dated 31st October 2018 from the Defendant to Ms Sarnaik conveying his instructions to her is taken on record and marked ‘S1’ for identification with today’s date.

9. The Registry will act on an authenticated copy of this order.

10. The original documents, if any, are to be returned upon these being substituted by photocopies duly authenticated by the Advocates.

(G. S. PATEL, J)