

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION (L) NO. 331 OF 2017**

IN

MISCELLANEOUS PETITION NO. 46 OF 2017

IN

TESTAMENTARY PETITION NO. 700 OF 2014

Gwendoline Ferro & Ors

...Petitioners

Versus

Arlene D'Souza

...Respondent

WITH

MISCELLANEOUS PETITION NO. 27 OF 2017

IN

TESTAMENTARY PETITION NO. 700 OF 2014

WITH

NOTICE OF MOTION NO. 285 OF 2017

AND

CHAMBER ORDER NO. 52 OF 2018

IN

TESTAMENTARY PETITION NO. 700 OF 2014

**Ms Priyanka Patil, i/b Bhushan Mahadik, for the Petitioner/Applicant
in NMTL/331/2017.**

**Mr Ivor P D'Cruz, with Rajesh Machado & Payal D Kundo, for the
Respondent.**

CORAM: G.S. PATEL, J
DATED: 24th January 2018

PC:-

1. By an order dated 15th September 2017, the Miscellaneous Petition was allowed. As is evidence from paragraph 11, the probate granted in Testamentary Petition No. 700 of 2014 was recalled and the Testamentary Petition was restored to file. It is pending. What remained to be done was to say that the Miscellaneous Petition was thus disposed of. That is self-evident.

2. It is clarified that Miscellaneous Petition No. 27 of 2017 was disposed of on 15th September 2017 along with Miscellaneous Petition No. 46 of 2017.

Notice of Motion (L) No. 331 of 2017:

3. In view of the order dated 15th September 2017, it is difficult to see how this Notice of Motion could ever have been filed a month later. In any case, this Notice of Motion is misconceived. The order dated 15th September 2017 restored Testamentary Petition No. 700 of 2014. That will need to be decided. In any case, there was no grant of Letters of Administration in that Petition.

4. The Notice of Motion is dismissed as withdrawn. No costs.

Notice of Motion No. 285 of 2017:

5. The Notice of Motion seeks interim relief in respect of property in the Miscellaneous Petition that was disposed of on 15th September 2017. It is the Testamentary Petition No. 700 of 2014 that has been restored, subsisting and will now be contested. The Notice of Motion will need to be filed in the Testamentary Petition.

Chamber Order No. 52 of 2018:

6. Chamber Order (L) No. 52 of 2017 is pending before the Registrar. It is withdrawn to Court. By consent, it is taken up.

7. It seeks to add the names of various persons as next-of-kin in paragraph 8 of the Petition.

8. It is made absolute. Amendment to be carried out without need of reverification within two weeks from today.

(G. S. PATEL, J)