

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

**CHAMBER SUMMONS NO.1162 OF 2018
IN
SUIT NO.2587 OF 2012**

Nasreen Vishnu ... Applicant

In the matter between :

Nasreen Vishnu And Another ... Plaintiffs
Versus

Maureen Helen Hussain ... Defendant

....

Mr. Archit Jayakar I/b Jayakar & Partners for the Applicant/Plaintiff.

....

CORAM : S.C.GUPTE, J.

DATE : 23 OCTOBER 2018

P.C. :

. The present Suit is filed by the Plaintiffs, who are sisters, against their mother. The suit seeks a declaration that the Plaintiffs are entitled to 1/3rd shares each (i.e. between them 2/3rd share) in the suit flat. The Defendant died on or about 3 December 2015. The Plaintiffs herein are the only heirs and legal representatives of the deceased Defendant. By an order dated 15 January 2016, the Suit has been disposed of as withdrawn.

2 Pending the present suit, an amount of Rs.41,83,309/- was deposited by the Plaintiff in court. The Prothonotary and Senior Master of this court was directed to hand over an amount of Rs.50,000/- to the Defendant on or before 5th day of every month, starting from December 2012 for her

personal expenses. After such amount was duly paid till the death of the Defendant, a fund of Rs.20,79,881/- is said to have been left with the Reserve Bank of India in Personal Ledger Account of the office as of January 2016. The order disposing of the Suit passed on 15 January 2016 directed the office to invest this amount in fixed deposit of a Nationalized Bank and gave liberty to the parties to apply. The Defendant has left a last will and testament, which has since been admitted to probate. The probate certificate dated 31 May 2018 is annexed to the affidavit in support the present chamber summons. The Plaintiffs have been designated as joint legatees in respect of the shares, fixed deposits, bonds, saving accounts etc. of the deceased Defendant. The Applicant in the present Chamber Summons, i.e. Plaintiff No.1 to the Suit, has been appointed as sole executrix of the last will and testament of the deceased Defendant. Based on the bequest and appointment of herself as an executrix of the probated will, the Applicant seeks withdrawal of the amount. The application, in the premises, deserves to be allowed.

3 The Chamber Summons is accordingly allowed in terms of prayer clauses-(a) and (b).

4 All parties, including the office, to act on the authenticated copy of this order.

(S.C. GUPTE, J.)