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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 408 OF 2017
WITH
NOTICE OF MOTION NO. 2045 OF 2017**

Surekha Arun Rao & Anr	...Plaintiffs
<i>Versus</i>	
Sumati Govind Shirishkar & Ors	...Defendants

Ms Pinky M Bhansali, *for the Plaintiffs.*
Ms Kshama Bhandari, *i/b VC Ghosalkar, for Defendant No. 6.*

CORAM: G.S. PATEL, J
DATED: 4th April 2018

PC:-

1. The Notice of Motion is for a judgment on admission as against Defendants Nos. 1 to 5. They are absent though served.
2. Page 14 of the Affidavit in Support shows that in a previous Affidavit in Reply to Notice of Motion (L) No. 742 of 2017 Defendant No. 1 categorically stated in paragraph 7 that

"these Defendants have in no uncertain terms admitted that all heirs and legal representatives of the deceased Govind Bhagoji Shirishkar have equal right title and interest in the properties immovable and movable as well

as investments left behind by him except for transfers/alienations made by deceased Govind Bhagoji Shirishkar during his lifetime.”

3. Indeed the second sentence also makes it clear that this admission is once again re-affirmed. It is in this context that a preliminary decree of partition is sought in this partition Suit.

4. Defendants Nos. 3 to 5 together are all in one branch. Thus, there are five co-sharers and the submission is that the preliminary decree to be passed declaring that the two Plaintiffs, Defendant No. 1, Defendant No. 2 and Defendants Nos. 3 to 5 together have a 1/5th share, right, title and interest in the estate of the deceased father.

5. The Notice of Motion succeeds because the admission is clear and unambiguous. There will be a preliminary decree in these terms in Suit No. 408 of 2017.

6. The Notice of Motion is disposed of accordingly. No costs.

(G. S. PATEL, J)