

Ashwini

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY SUIT NO. 17 OF 2021**

IN

TESTAMENTARY PETITION NO. 2694 OF 2019

Mayur Mangaldas Kothari ...Plaintiff

Versus

Uttank Vinayak Vora & Anr ...Defendants

IN

TESTAMENTARY PETITION NO. 471 OF 2019

Uttank Vinayak Vora & Anr ...Petitioners

And

Neeraj Vinayak Vora ...Deceased

**Mr Karl Tamboly, with Ms Ishani Paradkar & Ms Darla Dmello, i/b
Nityoah Suneel & Associates, for the Plaintiff.**

**Mr Ganesh K Gole, with Ashutosh Shukla, i/b Arif Alia, for the
Defendant.**

Atul G.
Kulkarni

Digitally signed
by Atul G.
Kulkarni
Date:
2021.03.11
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**CORAM: G.S. PATEL, J
DATED: 10th March 2021**

PC:-

1. On instructions, and in view of the fact that the Testamentary Petition for Letters of Administration at the instance of a secured creditor is not maintainable, Mr Tamboly seeks leave to withdraw

the Testamentary Petition and consequently the Testamentary Suit. The Testamentary Petition and Testamentary Suit are dismissed as withdrawn.

2. However, this is without prejudice to the Petitioner's substantive recovery civil suit being Summary Suit No. 1148 of 2019 that is already being filed and which is pending, and also without prejudice to all interim or other applications in that proceedings.

3. Court fees to be refunded in accordance with the Rules. For the purposes of Section 43 of the Maharashtra Court Fees Act and the proviso to that Section, today's date is the date of making a claim for repayment. The Prothonotary & Senior Master will issue a certificate for a refund of Court Fees computed according to the Rules. He will act on production of an authenticated copy of this order without requiring a separate application.

4. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production of a digitally signed copy of this order.

(G. S. PATEL, J)