

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

**APPEAL NO.45 OF 2019
IN
TESTAMENTARY SUIT NO.143/2014
WITH
NOTICE OF MOTION (L) NO.10/2019
IN
APPEAL NO.45 OF 2019**

Snehalata Kaushik Desai & Anr. ... Appellants.
Vs.
Nima Keerthy @ Nima Desai ... Respondent.

**WITH
APPEAL NO.31 OF 2020
IN
TESTAMENTARY SUIT NO.143 OF 2014
WITH
NOTICE OF MOTION NO.10 OF 2020
IN
APPEAL NO.31 OF 2020**

Udit Kaushik Desai & Anr. ... Appellants.
Vs.
Nima Keerthy @ Nima Desai ... Respondent.

Mr.Kapil Shah a/w Ms Nidhi Jha i/b M/s Juris Associates for the appellants in both appeals.

Mr.Rohaam Cama a/w Mr.Shanay Shah, Ms Soniya Putta, Ms Devyani Deshmukh i/b Ms. Solomon & Co. for respondent in both the appeals.

Ms Snehalata Kaushik Desai- appellant no.1 in Appeal no. 45/ 2019 and appellant no.2 in Appeal no.31/2020 is present.

Ms Neema Keerthy-respondent in both the appeals, is present.

**CORAM : R.D. DHANUKA &
KAMAL KHATA, JJ.**

DATE : 5TH SEPTEMBER, 2022.

P.C. :

1. By these appeals, the appellants are seeking relief against the impugned order passed by the learned Single Judge framing additional issues and making certain observations about the conduct of the appellants during the course of conducting proceedings in the Testamentary Suit.

2. Learned Counsel for both the parties jointly state on instructions, that the reasons are not required to be recorded by this Court while disposing of the appeals and the notice of motion. Statement is accepted.

3. Learned Counsel for the appellants states that if this Court makes it clear that the observations made by the learned Single Judge in the impugned order, would not come in a way of the appellants in proceedings before the learned Single Judge at the time of trial, the appellants do not propose to pursue other issues raised in the appeals.

4. Mr.Cama, the learned Counsel for the respondents(original plaintiff) states that the appellants shall be directed not to cause any further delay in proceedings with the trial before the learned Single Judge and shall cooperate in disposal of suit expeditiously. Mr.Cama states that if the appellants give such an Undertaking before this Court, his client has no objection if the clarification sought by the appellant is made by this Court.

5. Learned Counsel appearing for the appellants, on instructions from Snehalata, who is one of the appellant, on her behalf and on behalf of son, undertakes not to cause any delay in the proceedings in Testamentary suit, will cooperate for expeditious trial and will not apply for unnecessary adjournment. Statement is accepted.

6. Without going into the issue of maintainability of this appeal, in view of the Undertaking rendered by the appellant, it is clarified that the learned Single Judge shall not be influenced by the observation made by the learned Single Judge in the impugned order while deciding the suit.

7. It is made clear that the original plaintiff would be entitled to bring this Undertaking to the notice of the learned Single Judge, rendered by the appellants.

8. If the learned Single Judge finds that the appellants had not complied with the undertaking, the learned Single Judge to

pass appropriate order after considering the observation made by the learned Single Judge in the impugned order and about the conduct after passing this order.

9. Both the appeals are disposed of in aforesaid terms.

10. No order as to costs.

11. In view of disposal of the appeals, the notice of motions do not survive and are disposed off.

(KAMAL KHATA, J.)

(R.D. DHANUKA, J.)