

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

Amk

TESTAMENTARY SUIT NO. 39 OF 1989
IN
TESTAMENTARY PETITION NO. 279 OF 1989

Xavier Hillary Geoffrey Almeida & Anr. .. Plaintiffs
Vs.
Rui Rodrigues & Ors. .. Defendants

Mr. Piyush Raheja i/b Mr. M.S. Dehlvi for the plaintiffs.
Mr. Saeed Akhtar for Defendant No.1.
Ms. Usha Rahi i/b M/s. Mayur Narendra & Co. for the Defendants in Suit N.
1816 of 1989
Mr. K. K. Trivedi, 1st Asstt. to Court Receiver.

CORAM : **MRS. ROSHAN DALVI, J.**
Date : **17th DECEMBER, 2012.**

P.C.

1. The admissibility of the documents was considered on 24th September, 2012. Affidavit of examination-in-chief has been filed. By consent, Ms. Jyoti Kalyanpur, retired Judge is appointed Commissioner to record the cross-examination of the witnesses in this suit. Parties shall appear before the Court Commissioner initially on 20th December, 2012 at 5 p.m. and thereafter as fixed by the Commissioner. The Commissioner shall record the evidence of the parties preferably day to day. Parties shall pay the fees of the Commissioner as fixed by the Commissioner equally. After the cross-examination of the plaintiffs is complete, the plaintiffs shall be entitled to file the affidavit of evidence of the attesting witnesses before the Court Commissioner directly. Those witnesses shall be cross-examined before the Court Commissioner directly. After the plaintiffs close their evidence, the defendants shall file their affidavit of evidence, if required, before the Court Commissioner directly and shall be cross-examined before the Court

Commissioner directly. Parties to place the suit on board after the entire evidence is complete. This suit shall be placed on board along with all the related suits between the parties.

2. 2 of these suits are of the year 2012. 3 of these suits are of the years earlier. 3 suits are assigned to this Court. 2 suits are assigned to another Court. The argument upon the evidence in respect of the various wills propounded by the various parties shall have to be heard together as earlier directed.

3. Parties shall obtain the order from the Hon'ble Chief Justice for assignment of one Court for all the suits.

4. The Court Receiver's charges as also the valuation fees have not been paid though the plaintiff in Suit No. 1816 of 1989 has been in possession of a part of the suit property. The plaintiff in that suit shall pay all the necessary charges of the Court Receiver as also the valuer's fees.

(ROSHAN DALVI, J.)