

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISIDCTION

TESTAMENTARY SUIT NO. 5 OF 2005

Cecilia Remynold D'souza & Ors. ... Plaintiffs

vs.

Mrs. Rubey Cyril D'souza & 2 Ors. ... Defendants

Ms. Eventa A. Gonsalves a/w. Mr. Reyden L. Gonsalves for the Plaintiffs.

Mr. Anthony Fernandes i/b. Johnson John for Defendant nos. 1, 2 and 4.

Ms. Vaibhavi Pawar i/b. Mr. Suraj Kudalkar for Defendant nos. 3(a) and 3(b).

CORAM : A.K. MENON, J.

DATED : 11<sup>th</sup> JUNE, 2019

P.C. :

1. Ms. Gonsalves tenders affidavit of Ms. Cecilia Reynold D'souza by way of examination in chief. Witness is present. The affidavit is taken on record and marked **Exhibit P-1**.

2. As far as documents filed by the plaintiff are concerned there are four documents in the compilation. Except the Will and Testament of John Dominic D'souza dated 16<sup>th</sup> April, 1994, learned counsel for the defendants admit the contents documents at item 1, 3 and 4. Accordingly the following are marked;

(i) Death certificate of John Dominic D'souza is marked Exhibit P-2,

(ii) Will No. 13105 dated 16<sup>th</sup> April, 1994 is marked X-1 for identification.

(iii) Certified copies of the proceedings of Regular Suit No. 431 of 1992 issued by Thane Court is marked Exhibit P-3 (Colly) and compilation of the First Appeal No. 614 of 1998 is marked Exhibit P-4(colly).

(iv) By consent of parties Mr. Ranjeev Carvalho is appointed commissioner for recording of evidence. Learned counsel for the parties state that the Commissioner who has now fixed 25<sup>th</sup>, 26<sup>th</sup>, 27<sup>th</sup> June, 2019 and 3<sup>rd</sup>, 4<sup>th</sup> and 9<sup>th</sup> July, 2019 for recording evidence. Report of the commissioner shall be filed on or before 15<sup>th</sup> July, 2019.

4. Stand over to **16<sup>th</sup> July, 2019** for directions. Parties shall bear the costs of the Commissioner equally.

**(A.K. MENON,J.)**