

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

**TESTAMENTARY SUIT NO. 21 OF 2006
IN
TESTAMENTARY PETITION NO. 699 OF 2005**

1. Mohan Gurbaxani
2. Yusuf N. Nagarwala .. Plaintiffs
Vs.
Jer Jawhar Thadani .. Defendant

**WITH
SUIT NO. 1186 OF 2004**

Jer Jawhar Thadani .. Plaintiff
Vs.
Mohan Gurbaxani & Ors. .. Defendants

Mr.Keerti Munshi i/b B.G. Saraf for plaintiffs in TS/21/2006 and for defendants in S/1186/2004.

Ms.Deepti Panda i/b M/s. Dhru & Co. for defendant in TS/21/2006 and for plaintiff in S/1186/2004.

**CORAM : K.R.SHRIRAM, J.
DATED : 16th JUNE, 2016**

P.C.

1 At the outset, the counsel for the plaintiffs states that within one week from today, they will file their list of witnesses and serve a copy thereof upon the defendants.

2 The plaintiffs' third witness Yusuf Nagarwala (PW-3) is present in Court and is administered oath. On oath, PW-3 confirms having affirmed

the affidavit dated 10th December 2015 in lieu of examination in chief and also identifies his signature. The same is taken on record and marked **Exh.P-3/1.**

3 Along with Exh.P-3/1, the plaintiffs have also filed a compilation of 5 documents. The serial numbers given below relate to the index filed along with the compilation of documents :

- 1 : **Exh.-3/2.**
- 2 : **Exh.-3/3.**
- 3 : **Exh.-3/4.**
- 4 : **Exh.-3/5.**
- 5 : **Exh.-3/6.**

4 The Commissioner appointed earlier to continue to record evidence in the matter on same terms and conditions as was fixed earlier.

5 The Commissioner to ensure that the evidence of PW-1 is completed by 31st August 2016.

The Commissioner to fix minimum two/three dates per session for cross-examining PW-1. If the Advocates do not respond to the Commissioner's communication within 48 hours of receiving the communication suggesting the dates, the Commissioner to go ahead and fix the dates and the Advocates and the witness shall make themselves

available on those dates. If the witness or the advocates for the plaintiff does not turn up, then the evidence of the witness should be closed and if the Advocates for the defendant do not turn up, then the cross-examination of PW-1 should be closed as 'no cross'. The Commissioner should not grant adjournment to any party on any ground whatsoever unless the situation is so grave that it warrants an adjournment and it should be for reasons recorded.

Liberty to apply.

(K.R. SHRIRAM, J.)