

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY & INTESTATE JURISDICTION**

MISC.PETITION NO.20 OF 2003

**IN
TESTAMENTARY PETITION NO.1014 OF 1999**

Madhu Ramchand LundPetitioner

V/s.

C.B.Hinduja & Ors.Respondents

Ms.Revati Rajput i/by Meghraj & Associates for the petitioner.

Mr.Nainesh Amin for respondent nos.1 & 2.

Ms.Sunanda Kumbhat a/w Ms.Gauri Chabriya for respondent no.3.

Ms.Rashmi Patil a/w Ms.Priyanka i/by S.K.Srivastav & Co. for respondent no.4.

**CORAM : K.R.SHRIRAM,J
DATE : 16.1.2017**

P.C.:-

1 Further to the order dated 26.9.2016, the petitioner tenders the evidence of one Joulyn Kenny (PW-2) sworn on 15.11.2016 who is administered oath. On oath, PW-2 confirms having affirmed an affidavit dated 15.11.2016. The same is taken on record and marked Exh.P2/1.

2 The petitioner has also filed compilation of six documents through this witness. The serial numbers given below relate to the index to the compilation of documents.

Serial No.1 – marked as Exh.P2/2

Serial No.2 – These two documents are already received in evidence

and marked as P3 & P4 and therefore, need not be marked again.

Serial No.3 – This document is already received in evidence and marked P-20 and therefore need not be marked again.

Serial No.4 – marked as P2/X1 for identification.

Serial No.5 – already received in evidence and marked as P-21.

Serial No.6 -marked as Exhibit P2/3.

3 The counsel for the petitioner states that Mr.Salil Shah, an advocate who was appointed earlier be appointed to continue for recording evidence of PW-2. Mr.Salil Shah an advocate, practicing in this court is appointed as commissioner to record evidence in this matter. The fees, administrative expenses, typing charges, venue charges if any, to be shared equally between the parties. Costs will be cost in the suit.

The Commissioner to endeavor to complete recording of evidence of PW-2 by 28th February, 2017. The Commissioner to fix minimum two/three dates per session for cross examination of PW-2. If the parties do not respond promptly within 48 hours of receiving a communication from the Commissioner suggesting the subsequent dates, the Commissioner to go ahead and fix the dates convenient to the Commissioner and the parties shall make themselves available at the time and dates fixed by the Commissioner. If the plaintiffs or the witness does not remain present, the Commissioner should close the

evidence of PW-2 and if the defendants do not remain present to cross examine the witness, the defendants cross examination should be treated closed as no cross. Once the dates are fixed, the Commissioner not to grant adjournment on any ground whatsoever unless the situation is so grave that it warrants an adjournment and for reasons recorded.

4 Liberty to apply.

(K.R.SHRIRAM,J)