

*nada/f*

**BEFORE : MRS. C.J. BHATT,
COMPANY EGISTRAR/
TESTAMENTARY REGISTRAR
Date : 20th November 2019**

FOR DIRECTION (ORIGINAL SIDE MATTERS) :

21] TP/603/2014	Swati Sawant, Advocate for Petitioner.
With CTSL/232/2019	Sidhi Vora I/b. Nityoah Suneel & Associates, Advocate
TS/82/2012	for Petitioner.
TP/482/2010	

P.C.: Perused. Petition. Heard Advocate for the petitioner. There are two petitions filed for the same deceased by different executors. Court fee is paid only in TP/482/2010 filed by one Sajjankumar Nathman Agarwal. There is endorsement on the docket of TP/603/2014, that "court fee adjusted please see TP/482/2010" as per submission order dated 04.04.2014 in the second TP/603/2014. Therefore, no court fee is, paid.

Pursuant to the order dated 03.09.2019 passed in Chamber Summons No.81/2019 with Chamber Summons No.82/2019 passed in the above two matters, consent terms were filed and Caveat stand discharged and suit was disposed and petition to proceed with grant. In view of consent term in Suit No.82/2012 in TP/482/2010 has been dismissed.

Upon perusal of consent terms, as per Clause 2 of the consent term Mr.Sajjankumar Nathmal Agarwal who is petitioner in TP/603/2014 will be the executor and obtained Probate of the Will of the Ramkumaribai Shivdanmal Agarwal and as per Clause 6 of the consent term court fee paid in



TP/82/2012 be refunded to Aditya Sarojkumar Agarwal son of Sarojkumar Nathmal Agarwal in view of the consent term.

As both the petitions are filed by two separate executors, court fee can not be adjusted as the person who paid court fee is different person in both the matters. Advocate for the petitioner Ms.Swati Sawant submitted that there was no objection for court fee and therefore, court fee is not paid till now. She will take instruction from her client on that aspect.

As regards Clause 6 of the consent term as the consent term order is passed by this Hon'ble Court refunding the amount, office to do needful.

Ms.Swati Sawant, Advocate for petitioner in TP/603/2014 submits that clarification is required regarding court fee payment and refund of court fee to be made as mentioned in Clause 6 of the consent term, and she will move before the Hon'ble Court. Ms.Sidhi Vora, Advocate for the petitioner in TP/482/2010 submits that they have communicated this issue to the Advocate for the petitioner who in turn had replied that if the Department raise objection she is willing and ready to pay court fee.

S.O. to 04.12.2019.

20/11/2019

**COMPANY REGISTRAR/
TESTAMENTARY REGISTRAR**