

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

jmi

TESTAMENTARY SUIT NO.2 OF 2003

IN

TESTAMENTARY PETITION NO.381 OF 2002.

Mr.Ashok Kumar Sardarilal Agarwal & Anr. ..Plaintiffs.

vs.

Vijay S. Agarwal & Ors.

..Caveators/  
Defendants.

....

Mr.S.V. Doijode, a/w. Ms.M.Iyer, i/b. M/s.Doijode &  
Asso, for Plaintiffs.

Mr.sujit Suryavanshi,i/b. Vigil Juris, for Defendant  
No.2.

Mrs. S. Agarwal, wife of Defendant No.2, present.

Mr. S.T. Kapse, First Assistant Master, present.

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CORAM: S.J.KATHAWALLA, J.

DATE : 8TH APRIL, 2009.

P.C.:

. The plaintiffs and the defendants are brothers.  
By an order dated 29th January 2009 passed by this  
Court, the Prothonotary and Senior Master was directed  
to appoint an officer of this Court within one week from  
the date of the order to administer the estate of the  
deceased immediately upon the letters of administration  
being given.

2. It is an admitted fact that bedroom nos. 1 & 2  
are used by the plaintiff no.2 and his family and  
bedroom nos. 3 & 4 are used by the defendant and the  
members of his family in flat no.20, Vijay Mahal, 'D'

Road, Churchgate. It is again an admitted fact that the wardrobes in bedroom no.1 are infected by termites and same needs to be immediately treated. The family members of the defendant who are using bedroom nos. 3 & 4 have kept certain belongings in the wardrobes which are in bedroom no.1. The defendant and his family members who are in use and occupation of bedroom nos.3 & 4 cannot keep their belongings in the wardrobes of the bedroom no.1 which is admittedly used by the plaintiff. However, the wife of the defendant has insisted that she want the possession of wardrobe to keep her belongings after the wardrobe which is infected with termites is treated.

3. It is unfortunate that educated individuals like the parties in the present case do not sort out such trivial issues between themselves and waste the time of the Court, on issues whether the wife of the defendant can keep her belongings in the wardrobe which is in the room of the plaintiff no.2. Obviously such issues are raised by the parties only with the intention of settling scores against each other and to satisfy their egos.

4. The defendant and his family members including his wife who is present in Court are therefore directed to

forthwith remove their belongings from the wardrobe in bedroom no.1 which room is admittedly in use of the plaintiff no.2. The officer of the Court shall thereafter have the wardrobes treated and shall hand over the same to the plaintiff no.2. In the event of the defendant and or his family members not removing their belongings from the bedroom, the Officer of the Court shall have the same opened in the presence of the parties and hand over the belongings of the defendants to them after preparing inventory for the same.

[S.J.KATHAWALLA, J.]