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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO.127 of 1994
IN
TESTAMENTARY SUIT NO.57 of 1994

Captain Homi Darasha Colabawalla ... Deceased

Girish N. Jani ... Petitioner

Katie Bhathena ... Beneficiary

...

Mr. Satish Kamat, Advocate for Girish N. Jani for the petitioner

Mr.Bookwala for Katie Bhathena i/b Rustomji Ginwala, Advocate for the beneficiary.

CORAM : D.G. KARNIK, J

DATED : 5th December 2011

PC.

1. Petition was originally filed by Caption Homi Darasha Colabawala for grant of probate to the last will and adjournment of late Mani Dorabji Seervai. The original petitioner Captain Colabawala died on 20 September 2011. One Mr.Girish N. Jain who claims to be one of the legatees under the will filed a praecipe for joining him as the petitioner in place of Mr.Colabawala and it



appears that the Addl.Prothonotary & Master allowed him to be joined as the petitioner on the basis of the praecipe.

2. Ms.Katie Bhatene who also claims to be another legatee under the will took out a chamber order for substituting her in place of Captian Colabawala and convert the petition of grant of probate into a petition of grant of letters of administration. It appears that at that time, the earlier order passed on the praecipe was not brought to the notice of the Addl. Prothontoary and hence by an order dated 11 October 2011 he allowed the chamber order and granted permission to Ms.Bhatene to be substituted in place of Captain Colabawala.

3. Be that as it may, since both Mr.Jani and Ms.Bhatena claim to be the beneficiaries under a will, both should be joined as party petitioners. It appears that there is a dispute inter-se between the two and each of them wants to be appointed as a sole administrator to the exclusion of the other. That issue can be considered by the court at the time of grant of letters of administration. For the moment, both the persons be joined as party petitioners and the petition be converted into a petition for grant of letters of administration. Registry shall permit the parties to carry out the necessary amendments.

(D.G.KARNIK, J)