

kps

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

**NOTICE OF MOTION NO.17 OF 2013
IN
MISCELLANEOUS PETITION NO.66 OF 2012
IN
TESTAMENTARY PETITION NO.498 OF 2009**

Vinod Chandrakant Donde. ..Applicant
In the matter between
Mrs.Pushpa Shrikant Patki and others. ..Petitioners
-Versus-
Vinod Chandrakant Donde and another. ..Respondents

.....
Mrs.Neha Bhatt i/by Bilawala & Company, for the Applicant in Notice of Motion.

Mr.D.H.Mehta i/by Ms.Meenakshi Dhanuka, for the Petitioners in Misc. Petition.

.....

CORAM: S.J.KATHAWALLA, J.

DATE :- 25th February, 2014.

PC:

1 One Vinod Chandrakant Donde had filed the Testamentary Petition No.498/2009 and obtained the Probate of the Will dated 03rd December, 2001 of his deceased mother (Gulabbai Chandrakant Donde) on 26th July, 2011. The sisters of the said Vinod Donde have, on 22nd April, 2012, taken out the Misc. Petition No.66/2012 seeking revocation of the grant of Probate issued on 26th July, 2011 in Testamentary Petition No.498/2009.

2 The said Vinod Donde has taken out the above Notice of Motion No.17/2013 seeking directions to prosecute one of his sisters,

namely, Smt.Rohini Ramchandra Naik for the alleged offences committed by her under Sections 191, 192, 193 and 195 r/w 34 of the Indian Penal Code for making incorrect statements in the said Misc. Petition No.66/2012.

3 The said Misc. Petition No.66/2012 is yet to be heard. In fact, today the Advocate for the Applicant (Vinod Donde) has filed the Affidavit-in-Rejoinder in the said Misc. Petition. The Advocate appearing for the sisters of the said Vinod Donde has informed this Court that the said sisters would be leading evidence in the said Misc. Petition in support of their contentions. It would be unfair to the sisters of the said Vinod Donde if the above Notice of Motion is taken up for hearing before the Misc. Petition filed by them is heard and disposed of. The interest of justice would be served if the said Notice of Motion is heard along with the Misc. Petition No.66/2012.

4 In view thereof, the Notice of Motion is directed to be placed for hearing along with the Misc. Petition No.66/2012. The Applicants in Misc. Petition No.66/2012 shall file their affidavit of evidence within a period of four weeks from today along with their affidavit of documents and compilation of documents, if any. Stand over to 28th March, 2014 for directions.

(S.J. KATHAWALLA, J.)