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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**SUIT NO. 337 OF 2014**

Khuzemabhai Syedna Taher Saifuddin Saheb ...Plaintiffs

*Versus*

Mufaddal Burhanuddin Saifuddin ...Defendants

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**Mr.Ravi Kadam**, *Senior Advocate a/w Mr. Chirag Mody, Mr. Anand Desai, Ms. Hemangi Abhyankar, Mr. Tejveer Singh, Mr.Mushir Singh i/b M/s. DSK Legal, for the Plaintiffs.*

**Mr.Janak Dwarkadas**, *Senior Advocate, a/w Mr. F.E. DeVitre, Senior Advocate, Mr. Firdosh Pooniwalla, Mr. Pankaj Savant, Mr. Juzer Shakir, Ms. A. Irani, Mr. Abeezar Faizullabhai, Mr. Varghese Thomas, Mr. Murtaza Kachwalla & Shahen Pradhan i/b M/s. J. Sagar Asso., for the Defendants.*

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**CORAM: G.S. PATEL, J**
**DATED: 15th September 2014**

**PC:-**

1. I have heard Mr. Kadam, learned senior counsel for the Plaintiffs, and Mr. Dwarkadas & Mr. DeVitre, learned senior counsel for the Defendants.

2. By an earlier order the Plaint was allowed to be amended, but reverification was dispensed with. It is agreed that the amendments

should indeed be reverified. The Plaintiffs will have this done at the earliest and in any event on or before 30th September 2019. Reverification may be done through a Notary.

3. There is only one office objection to the written statement, and it relates to continuous pagination. All other office objections are waived. The pagination will be corrected.

4. Mr. Kadam is justified in pointing out that the verification of the written statement is irregular in that it describes portions of paragraphs said not to be to the knowledge of the Defendant's constituted attorney, who has verified the written statement, but without actually identifying these portions in the body of the written statement. The Defendants shall on or before 6th October 2014 identify with suitable markings in the written statement those portions referred to in the verification clause. This will be communicated to the advocates for the Plaintiffs on or before that date. There is no need to reverify the written statement.

5. Both parties shall on or before 14th October 2014 file and serve on each other their respective affidavits of documents. The parties shall complete admission, denial and inspection of documents on or before 10th November 2014. After admission and denial is complete, parties shall prepare a separate compilation of agreed documents and those documents sought to be produced by either side but which are not so agreed.

**6.** I have also heard learned senior counsels on the question of framing of issues. Issues are framed and these are appended to this order.

**7.** List the Suit on 14th October 2014 for directions as to the next date and further schedule.

**(G. S. PATEL, J.)**

# ISSUES FRAMED ON 15TH SEPTEMBER 2014

# IN

# SUIT NO. 337 OF 2014

1. (a) Whether the suit is not maintainable for the reasons stated in paragraph 1 of the Written Statement?

   (b) Whether this Court has no jurisdiction to entertain and try the suit or grant the reliefs prayed for as stated in the Written Statement?

   (c) Whether the reliefs prayed for by the Plaintiff in prayers (b) and (h) are barred by the provisions of the Maharashtra Public Trusts Act, 1950 as stated in paragraph 3 of the Written Statement?

2. What are the requirements of a valid *Nass* as per the tenets of the faith?

3. Whether the Plaintiff proves that a valid *Nass* was conferred/pronounced on him as stated in the Plaint?

4. Whether a *Nass* once conferred cannot be retracted or revoked or changed or superseded?

5. If the answer to Issue No.3 is in the negative, then whether the Defendant proves that a valid *Nass* was conferred on him by the 52nd Dai:

   (a) On 28th January 1969

   (b) In the year 2005

   (c) On 4th June 2011

   (d) On 20th June 2011

   as stated in the written statement? If so, whether this

amounted to or was a retraction or revocation or change or supersession of any *Nass* previously conferred by the 52nd Dai?

6. What Judgment and Decree?

**(G. S. PATEL, J.)**