

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO. 47 OF 2013
IN
TESTAMENTARY SUIT NO. 9 OF 2011
IN
TESTAMENTARY PETITION NO. 947 OF 2010**

Haresh Karnani	...Applicant
<i>In the matter between</i>	
Haresh Karnani	...Plaintiff
<i>Versus</i>	
Prakash Shyam Masand & Anr.	...Defendants

**Mr. Snehal Shah, a/w Mrs. Ferzana Behramkamdin, Shivani
Khanna, i/b M/s. FZB & Associates, for the Plaintiff.
Mrs. N. H. Ganatra, i/b Mr. Haresh G. Ganatra, for the Defendant.**

**CORAM: G.S. PATEL, J
DATED: 30th January 2015**

PC:-

1. Not on board. Mentioned. By consent taken on record and called out for hearing and final disposal.

2. Although I do not believe that such a Chamber Summons was actually even necessary, I see no difficulty in disposing it on peremptorily. Mr. Shah, learned Advocate for the Plaintiff, states that in view of the averments made in paragraphs 6 and 14 of the affidavit dated 14th January 2011 in support of the Caveat, an issue specifically arises as to whether the deceased was suffering from Alzheimer's disease and, if so, since when. In these paragraphs the Defendants have specifically stated that the Testator was suffering from Alzheimer's since 2008. It is for this reason that, according to them, he could not have made a testamentary disposition in November 2009. In view thereof, the following issue is framed as Issue No. 3A:-

“3A. Whether the Defendants prove that the Testator was suffering from Alzheimer's disease and, if so, whether he was suffering from Alzheimer's disease since 2008 alleged in paragraphs 6 and 14 of the affidavit in support of the Caveat?”

3. Of course, the Plaintiff will be at liberty to lead rebuttal evidence on Issue No. 3A as framed above.

4. With these directions, this Chamber Summons is disposed of. Additional directions that are necessary are separately recorded in the Suit.

(G. S. PATEL, J.)