

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION NO. 117 OF 2015
IN
TESTAMENTARY PETITION NO. 1260 OF 2014**

Veena Chaturbhuj Gvalani Alias Veena Gvalani	...Petitioner
Ganjoo nee Veena Suneil Ganjoo Gvalani	
<i>Versus</i>	
Seema Kamal Gvalani	...Caveator

Mrs. S. Singh, *for the Petitioner.*
Mr. C. Shah, *i/b Mr. J.J. Shah, for the Caveator.*

CORAM: G.S. PATEL, J
DATED: 28th October 2015

PC:-

1. By an order dated 5th February 2015 passed in the Petitioner's Chamber Summons No. 4 of 2015, the Caveat was discharged, principally for the reason that no Affidavit in its support had till then been filed.

2. The present Notice of Motion seeks a recall of that order for the reasons are set out in the Affidavit in Support. I am inclined to condone the delay and allow the present Notice of Motion.

However, given the fact that the Petitioner had filed a Chamber Summons for dismissal of the Caveat, it would not be fair to the Petitioner to directly allow the Caveat and convert the Petition into a Suit.

3. Hence, the following order:-

- (a) The order dated 5th February 2015 is recalled and set aside;
- (b) Chamber Summons No. 4 of 2015 is restored to file. This is a Chamber Summons filed by the Petitioner for discharge of the Caveat. That Chamber Summons is to be listed for hearing and final disposal on 18th November 2015.
- (c) Registry is directed to number the Caveat.
- (d) Affidavit in support of the Caveat to be filed and served on or before 5th November 2015.
- (e) It is made clear that if the Caveators are absent on that date, that Chamber Summons may be made absolute and the Caveat will thereafter not be restored to the file.

4. Affidavit in Reply to Chamber Summons No. 4 of 2015 to be filed and served on or before 5th November 2015.

5. Mrs. Singh for the Petitioner points out that the Caveator has filed administration Suit No. 830 of 2014 in which there are three pending Notices of Motions. List all these three Notices of Motions for directions along with Chamber Summons No. 4 of 2015 on 18th November 2015.

(G. S. PATEL, J.)