

Sharayu

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO. 108 OF 2014
IN
TESTAMENTARY SUIT NO. 17 OF 2014
IN
TESTAMENTARY PETITION NO. 1399 OF 2013**

Satchidanand Bhagwantrao Dadarkar

...Applicant/
Petitioner

Versus

Mr. Deepak Parshuram Bhatte & Anr.

...Cavetors

Mrs. Geeta Mulekar, *for the Petitioner.*

Mrs. Nutan S. Moily, *for the Caveator.*

CORAM: G.S. PATEL, J
DATED: 3rd February 2015

PC:-

1. This is the Petitioner's Chamber Summons for dismissal of the original 2nd Defendant's caveat. The 1st Defendant's caveat has already been dismissed. The 2nd Defendant is the only remaining defendant and is referred to as such in this order. The 2nd Defendant filed a Caveat through the Constituted Attorney, his wife. There is a single page Affidavit-in-Support of this Caveat. In

paragraph 2 of that Affidavit the Defendant alleges that the Will sought to be propounded is false and fabricated.

2. This is not an issue that can be decided on an interlocutory proceeding in a testamentary action. Evidence will require to lead and issues will have to be framed on this plea taken in the Affidavit-in-Support. It may be true that the Petitioner has a complete answer on all points. That, however, will have to await the trial of the Suit.

3. The Chamber Summons is dismissed, but there will be no order as to costs.

(G. S. PATEL, J.)