

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO. 108 OF 2013
IN
TESTAMENTARY SUIT NO. 139 OF 2013
IN
TESTAMENTARY PETITION NO. 227 OF 2012**

Kamalnayan Jhaveri	...Applicant
<i>In the matter between</i>	
Kalhans H. Jhaveri	...Plaintiff
<i>Versus</i>	
Hirendra H. Jhaveri	...Defendant

Ms. S. Chatterjee, *i/b M/s. M.K. Ambalal & Co., for the Applicant.*
Ms. S. Agrawal, *i/b Mr. L. Jain, for the Plaintiff.*
Mr. K. Mhatre, *i/b M/s. Mhatre & Associates, for the Defendant-*
Hirendra H. Jhaveri.

CORAM: G.S. PATEL, J
DATED: 23rd October 2015

PC:-

1. The Applicant seeks that a delay of 135 days in filing the Affidavit in Support of the Caveat be condoned. The Applicant is a son of the deceased and a brother of the Plaintiff/Petitioner. The Petition, I find, has already been converted into a Suit on account of

a Caveat having been filed by one Hirendra H. Jhaveri. No conceivable prejudice could be caused to the Plaintiff if the present Chamber Summons is made absolute.

2. Learned Advocate for the Plaintiff opposes the Chamber Summons and says that no satisfactory reasons are given to condone the delay. At best, this would entitle the Plaintiff to the costs.

3. The Chamber Summons is made absolute in terms of prayer clause (a) and (b). Delay is condoned. The Affidavit in Support has already been filed and a copy has already been served. The Applicant will pay costs quantified at Rs. 135/-, i.e., Rs. 1/- for each day delay to be paid by cheque to the Advocates for the Plaintiff.

(G. S. PATEL, J.)