

Sharayu.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO. 121 OF 2015
IN
TESTAMENTARY SUIT NO. 151 OF 2014
IN
TESTAMENTARY PETITION NO. 525 OF 2012**

Mrs. Kamalini B. Mehta & Anr.	...Applicants
<i>In the matter between</i>	
Hemal Viral Shah @ Hemal Shishir Parikh	...Plaintiff
<i>Versus</i>	
Priya Tushar Parikh	...Defendant

Mr. K. Panchangare, i/b Pillai & Co., for the Applicants.
Ms. N. Mukharjee, i/b M/s. N.N. Vaishnawa & Co., for the
Petitioner.
Mr. B.G. Saraf, for the Defendant

CORAM: G.S. PATEL, J
DATED: 19th October 2015

PC:-

1. The Chamber Summons seeks to set aside an order dated 13th October 2014 of the Additional Registrar/Additional Prothonotary. A copy of that order is at page 17 to the Affidavit in

Support. On that date, the Applicant and her Advocates were absent. Despite this, the Additional Prothonotary gave the Applicant time to 18th November 2014 to remove all objections in the Caveat, failing which the Caveat was to stand dismissed under Rule 986 of the (O.S.) Rules. The objections were not removed. The Caveat stood dismissed.

2. Mr. Panchangare for the Applicant today states that he has till today not even seen Caveat in question. I have. I find it astounding that an application is brought to set aside the Prothonotary's order of dismissal for default without even caring to see what those objections might be. The Caveat dated 1st March 2013 is not just entirely irregular; it is no Caveat at all. The date of death is left blank. The text reads thus :-

"To,
The Prothonotary & Senior Master,
High Court (o.s.),
Mumbai.

Sir,

Let nothing be done in the matter of the
Estate of the abovenamed Shri. Niranjan
Dharsi Parikh deceased, who died at Mumbai
on _____ without due notice to the
abovenamed Caveators.

Dated this 1st day of March, 2013.

Yours Faithfully,

GABRIEL PILLAI
Advocate for Caveator."

3. This is an error that could and should have been corrected. The Additional Prothonotary gave more than enough time to the Applicant to make this change. Even today, the Caveat's defects have not been cured, and this is obvious from the statement made that Mr. Panchangare has not even seen the Caveat.
4. There is no ground made out to set aside the order of the Additional Prothonotary.
5. The Chamber Summons is dismissed.

(G. S. PATEL, J.)