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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
TESTAMENTARY AND INTESTATE JURISDICTION  
CHAMBER SUMMONS NO. 3 OF 2015  
IN  
TESTAMENTARY SUIT NO. 32 OF 1994  
IN  
TESTAMENTARY PETITION NO. 402 OF 1993**

|                              |              |
|------------------------------|--------------|
| Mr. Prakash Raikar           | ...Applicant |
| <i>In the matter between</i> |              |
| Nilesh R. Patkar             | ...Plaintiff |
| <i>Versus</i>                |              |
| Prakash B. Raikar            | ...Defendant |

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**Mr. A.G. Toraskar**, *for the Plaintiff.*  
**Mr. A.S. Khandeparkar**, *with Mr. Sachin Parmar, i/b M/s.*  
*Warerkar & Warerkar, for the Applicant / Defendant.*

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**CORAM: G.S. PATEL, J**  
**DATED: 27th January 2015**

**PC:-**

1. Affidavit in reply dated 23rd January 2015 is taken on record.
2. The Chamber Summons seeks an amendment of the affidavit in Support of the Caveat. Mr. Khandeparkar, learned Advocate for

the Applicant / Caveator, correctly points out that the substance of the Affidavit in Support already indicates that one of the defences or grounds of opposition by the Defendant is that the Will in question is unnatural, in that it completely excludes the Defendant, his wife and his daughters although all of them were residing with the Testator till the time of his death and, further, relations between the Defendant and Defendant's family on the one hand and the Testator were not just cordial but were very close indeed. It is in this context that the Defendant has in paragraph 12 of the Affidavit in Support stated that it was impossible that the Testator would not know his married daughter's correct name. The essence of this is, clearly, that the Will is unnatural in excluding the Caveator and his family.

3. It is true that this is a very old Suit of 1994 and that the trial has progressed. I do not see, however, what possible prejudice would be caused to the Plaintiff if the amendment is allowed. The amendment sought is purely clarificatory. It amplifies and sets out in specific terms that which is necessarily implicit in the Affidavit in Support of the Caveat. Indeed, it is of possible assistance to the Plaintiff to have a greater degree of exactitude in the pleadings.

4. In light of this, the Affidavit in Support of the Caveat is permitted to be amended in terms of the schedule annexed to the Chamber Summons. Amendment to be carried out within one week from today. Given the fact that the substance of the amendment is set out in the schedule to the Chamber Summons, it is not necessary to re-serve a copy of the Affidavit in Support of the

Caveat. It is sufficient if a copy of the amendment is sent to the Advocate for the Plaintiff. Reverification is dispensed with.

5. In view of the amendment permitted, Additional Issue No. 2A is cast as follows:

“2A. Whether the Defendants prove that the Will in question is an unnatural Will?

6. Learned Advocate for the Plaintiff is justified in his submission that both parties will be at liberty to lead further or additional evidence on this issue.

7. The Chamber Summons is disposed of in these terms.

8. All concerned to act on an authenticated copy of this order.

**(G. S. PATEL, J.)**