

JSN

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO.103 OF 2016
IN
TESTAMENTARY SUIT NO.51 OF 2016
IN
TESTAMENTARY PETITION NO.2097 OF 2015**

Chandulala Monji Hurbada	...Applicant / Plaintiff
<i>Versus</i>	
Shivji Moji Hurbada and Others.	... Defendants

**Mr. Sunil A. Vyas, i/b Mansukhlal Hirala and Company for the
Plaintiff/ Applicant.**
Ms. Bhagyashree S. Belkar, i/b Harish Pawar for the Defendants.

**CORAM: G.S. PATEL, J
DATED: 16th August 2016**

PC:-

1. This Chamber Summons is filed under Rule 404 of the Bombay High Court Rules. This Rule is one that should be immediately deleted by amendment. It is wholly unnecessary and adds to delays and needless paperwork. An order such as the one sought on this Chamber Summons can be made simply by listing the matter for directions. That listing should happen as a matter of

course, without needing a formal application, within the two weeks of the Petition being renumbered as a suit, i.e., after a caveat is entered.

2. I propose to take up the Suit itself immediately for framing issues. Both sides consent. The Chamber Summons is accordingly disposed in these terms.

3. By consent the Suit itself is taken up for framing issues. Issues are framed and these are appended to this order.

4. The Plaintiffs shall, on or before 8th September 2016, file (i) the evidence affidavit of the Plaintiff; (ii) an affidavit of documents; and (iii) a compilation of documents duly indexed and paginated. Copies of each of these will be served on the advocates for the Defendants on or before that date.

5. Suit to be listed for marking documents on 16th September 2016. If these directions have not been complied with by then, the suit and the petition will be dismissed. On compliance with these directions as to filing, the matter will be taken up for marking of the Plaintiff's documents and further directions irrespective of the caption under which it is listed.

(G. S. PATEL, J.)

ISSUES FRAMED ON 16TH AUGUST 2016

TESTAMENTARY SUIT NO.51 OF 2016

IN

TESTAMENTARY PETITION NO.2097 OF 2015

1. Whether the Plaintiff proves that he is entitled to the Letters of Administration to the property and credits of the deceased Smt. Parvatiben Monji Hurbada?
2. Whether the Caveators / Defendants prove that the Plaintiff is not a fit and proper person to administer the estate or grant the Letters of Administration to the property and credits of the deceased?
3. Whether the Defendants prove that the Letters of Administration to the property and credits of the deceased should be granted to the Defendants or to some other fit person?
4. What relief and what order?

(G. S. PATEL, J.)