

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO. 137 OF 2015
CHAMBER SUMMONS (L) NO. 30 OF 2015
IN
TESTAMENTARY PETITION NO. 26 OF 2013**

Rajanikant Narayanbhai Patel	...Petitioner
<i>Versus</i>	
Yogeshkumar N. Patel	...Defendant/ Applicant

Mr. Sachin P. Shetye, *i/b Mr. Prashant Karande*, for the Petitioner.
Mr. Uday Bobade, *i/b Mr. Mukesh Subramaniam*, for the Applicant.

CORAM: G.S. PATEL, J
DATED: 25th April 2016

PC:-

1. The Chamber Summons is for condonation of 25 days' delay in filing a Caveat and 207 days' delay in filing an Affidavit in Support of it. The Affidavit in Support of this Chamber Summons sets out that the original Caveat being defective, the Applicant made repeated attempts to file it in the correct form. This resulted in the delay. I do not think it would be appropriate to completely non-suit a party on such grounds.

2. Mr. Shetye for the Petitioner presses for costs.
3. The Chamber Summons is made absolute in terms of prayer clauses (a) and (b) on payment by the Applicant to the Petitioner a sum of Rs. 250/- as costs as a condition precedent.
4. Mr. Bobade for the applicant says his attorney will issue a cheque in this amount. Mr. Shetye promptly forgoes the costs.
5. The Caveat and the Affidavit in Support having been lodged, the Petition will now be renumbered as a Suit and will be placed for framing issues on 5th May 2016.

(G. S. PATEL, J.)