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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO.23 OF 2016**

IN

CAVEAT (L) NO.145 OF 2015

IN

TESTAMENTARY PETITION NO.1609 OF 2013

Mukesh Poonamchand Parmar	...Applicant
<i>And</i>	
Hrishikesh Arvind Mafatlal	...Petitioner
<i>Versus</i>	
Mukesh Poonamchand Parmar	... Caveator

**Mr. A. Postwala, with Dolly Kotwani, i/b. Vigil Juris for the
Petitioner.**

Mr. Kezer A. Kharwala, for the Applicant.

**CORAM: G.S. PATEL, J.
DATED: 21st March 2016**

P.C.

1. Heard.
2. The Chamber Summons is filed by the Caveator. He seeks that a delay in filing the Affidavit in Support of the Caveator be condoned.

3. Actually, the matter is quite unusual. The Caveator filed his Caveat in time. He drew up an Affidavit in Support on his Caveat. He took it to the Notary. That Notary dated it, stamped it and registered it but omitted to do one thing that he ought to have done, viz., take the signature of the Caveator on it. Armed with this thoroughly notarised stamped, sealed affidavit, but which did not bear his signature, the Caveat lodged the Affidavit with the Registry. All of this happened around 16th May 2015. Several months later, on 18th November 2015, the Registry seems to have realized that the signature of the Caveator was missing on this notarised Affidavit. The Caveator's advocate was summoned to the Registry.

4. Hence this Chamber Summons.

5. Clearly this is a case of oversight not only by the Petitioner but also by the Notary and by the Caveator's advocate. I cannot possibly let the Caveator suffer for this.

6. I note the vigorous opposition to the Chamber Summons from the Petitioner. Learned Advocate for the Petitioner as part of his protest, says that it is not correct that the Caveat and Affidavit in Support were filed in time but, according to him, were at least two weeks beyond time. Learned Advocate for the Caveator points out that what is overlooked in all of this is that there were parallel proceedings going on before the Prothonotary and Senior Master of this Court and which caused the delay.

7. In any case all this is irrelevant since I must condone the delay. The only question is whether the Petitioner is entitled to costs and if so in what amount. Learned Advocate for the Caveator agrees that costs of Rs.5,000/- are reasonable. He agrees to pay this amount. The Learned Advocate for the Petitioner with proper grace and courtesy accepts this offer of payment of costs. So noted.

8. Subject to payment of costs, the Chamber Summons is made absolute in terms of prayer clauses (a) and (b).

9. List the matter for framing of issues on 5th April 2016.

(G. S. PATEL, J.)