

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

**NOTICE OF MOTION NO. 43 OF 2017
IN
TESTAMENTARY SUIT NO. 129 OF 2014**

Chandrabai Kondiba Jagtap @	]	
Chandrabhaga Kondiba Jagtap	]	Deceased
Urmila Laxman Talekar	]	Applicant

IN THE MATTER BETWEEN:

Urmila Laxman Talekar	]	Plaintiff
Vs.		
Vishnu Kondiba Jagtap	]	Defendant

.....
Mr. P. V. Dhopatkar, for applicant.

.....
CORAM : R.G. KETKAR, J.

DATE : 8TH SEPTEMBER, 2017.

P.C.:

Heard Mr. Dhopatkar, learned Counsel for the applicant in support of this motion.

2. By this Motion, applicant/plaintiff has prayed for dismissal of the Caveat filed by the defendant in Testamentary Petition No. 621 of 2014.

3. Applicant has filed Testamentary Petition No. 621 of 2014 for Letters of Administration with the Will annexed to the

property and credits of Chandrabai Kondiba Jagtap @ Chandrabhaga Kondiba Jagtap [for short 'deceased']. Applicant is daughter of the deceased. Defendant is son of the deceased. He has filed Caveat and also affidavit in support of the Caveat.

4. Mr. Dhopatkar submitted that in the affidavit in support of the Caveat, Caveator has only prayed for serving copy of the proceedings. He also relied upon Rule 401 of High Court [Original Side Rules [for short 'Rules']] to contend that Caveat in Form No. 116 can be filed within 14 days from the service of the citation upon him or within such shorter time which as the Judge in Chambers may direct. In the present case, citation is not served on the caveator and, therefore, Caveat filed by him is pre-mature. No prohibition is laid down under the Rules for filing Caveat even before issuance of citation. That apart, as noted earlier, caveator is the son of the deceased.

5. In view thereof, no case is made out for dismissing the Caveat filed by the caveator. Accordingly, Motion is disposed of. Liberty to serve citation on the caveator.

[R.G. KETKAR, J.]