

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
 TESTAMENTARY AND INTESTATE JURISDICTION
 CHAMBER SUMMONS NO.92 OF 2017
 IN
 TESTAMENTARY SUIT (L) NO.123 OF 2017
 IN
 TESTAMENTARY PETITION NO.58 OF 2016

Office Notes, Office Memoranda of Coram, appearances, Court's orders, or directions, and Registrar's Orders	Court's or Judge's orders
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Ms Neha D. Nagotaneekar for Applicants.
 Mr. G. N. Salunke for Petitioner.

CORAM : R. G. KETKAR, J.
DATE : 08TH AUGUST, 2017

P.C.:

Heard Ms Nagotaneekar, learned Counsel for applicants and Mr. Salunke, learned Counsel for petitioner.

2. By this Chamber Summons, applicants have prayed for condoning the delay of 249 days in filing the affidavit in support of Caveat. In support of Chamber Summons, Ms Nagotaneekar submitted that the citation was received by the applicants on 29.06.2016. Instead of filing Caveat in the Testamentary Petition, inadvertently, Caveat was filed under Section 148-A of the Code of Civil Procedure, 1908 (for short 'C.P.C.') on 11.07.2016. She has invited my attention to Caveat Application filed on 11.07.2016. She submitted that it was filed within the period of 12

days from the receipt of the citation and was within time. She, therefore, submitted that for the reasons stated in the affidavit in support, delay may be condoned.

3. Mr. Salunke submitted that no such ground is pleaded in the affidavit in support.

4. I have considered the rival submissions advanced by the learned Counsel appearing for the parties. I have also perused the material on record. After perusing the material on record, it is evident that applicants received citation on 29.06.2016. Instead of filing Caveat in the Petition, applicants filed Caveat under Section 148-A of C.P.C. on 11.07.2016. The said fact is also evident from the affidavit in support of Jay Kanayalal Gianami, applicant No.2. In view thereof and for the reasons stated in the affidavit in support, I am satisfied that applicants have made out sufficient cause for condoning the delay. Accordingly, Chamber Summons is made absolute in terms of prayer clauses (a) and (b) with no order as to costs.

(R. G. KETKAR, J.)