

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

T. & I. J.

CHAMBER SUMMONS No.88 OF 2017

IN

CAVEAT NO.88 OF 2015

IN

TESTAMENTARY PETITION NO.1774 OF 2013

Bharat Manilal Doshi

..... Applicant

IN THE MATTER BETWEEN

Darshana Manilal Doshi

.....Petitioner

VERSUS

Jayant Manilal Doshi and others

..... Caveators

Mr. Surin Usgaonkar for the Applicant.

Ms. S. I. Joshi i/by A. R. Bapat for the for the Petitioner.

Mr. Durgesh Kulkarni i/by Lex Firmus for the Defendant No.2.

CORAM : R. D. DHANUKA, J.

DATE : 2nd AUGUST, 2017

P.C.

1 By this Chamber Summons the Applicant seeks condonation of delay of 760 days in filing Chamber Summons and prays that the order dated 16.02.2015 passed by the Learned Additional Registrar (O.S.)/Prothonotary and Senior Master rejecting the Caveat and affidavit in support filed by the Applicant be quashed and set aside and further prays that the Caveat and affidavit in support of the Applicant

be taken on record.

2 I have heard the Learned Counsel for the Applicant/original Plaintiff. The Applicant has given various reasons in the affidavit in support explaining delay in removing office objections and also in filing the Chamber Summons. Learned Prothonotary and Senior Master has rejected the Caveat and affidavit in support filed on behalf of other two brothers of the Applicant viz. Mr.Mukesh Manilal Doshi and Mr.Kamal Manilal Doshi. In Chamber Summons No.36 of 2017, by an order dated 03.05.2017 passed by this Court, the said order has been set aside. This Court has granted three weeks time to remove office objections and imposed costs of Rs.25,000/-.

3 Ms. S. I. Joshi Learned Counsel for the original Plaintiff opposes the Chamber Summons on the ground that delay is not satisfactorily explained.

4 In my view, the Applicant has explained delay though not sufficiently explain. In the interest of justice, delay can be condoned on payment of cost of Rs.25,000/- to the Plaintiff within two weeks from today. I therefore pass the following order :-

- I) The order dated 16.02.2015 passed by the Learned Additional Registrar (O.S.)/Prothonotary and Senior Master rejecting the Caveat and affidavit in support of the Applicant herein is set aside.

II) Office is directed to accept the Caveat and affidavit in support on record subject to the payment of Rs.25,000/- as cost imposed within three weeks to the original Petitioner.

III) It is made clear that no further extension would be granted.

IV) If the office objections are not removed within three weeks from today and costs of Rs.25,000/- is not paid to the Petitioner within the said period, the Caveat and the affidavit in support filed by the Plaintiff to stand rejected.

5 Chamber Summons is disposed of in aforesaid terms.

6 All parties to act on an authenticated copy of this order.

(R. D. DHANUKA, J.)