

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**CHAMBER SUMMONS NO.71 OF 2017
IN
TESTAMENTARY PETITION NO.1402 OF 2016**

Vrujlal Virji Furia

.. Applicant/Caveator

In the matter between
Damji Premji Dedhia
Vs.

.. Petitioner

Vrujlal Virji Furia

.. Respondent/Caveator

Mr.Rajesh Chheda for the applicant/caveator.
None for the petitioner.

**CORAM : R.D. DHANUKA, J.
DATE : 31st July 2017**

P.C. :

. None appears for the petitioner when the matter was called out. No affidavit-in-reply is filed.

2. By this chamber summons, the applicant seeks condonation of delay of 89 days in filing the caveat. It is the case of the applicant that though the caveat was filed by the applicant within the time prescribed, since the same was not filed as per Form 116 prescribed in the Bombay High Court (Original Side) Rules, 1980, office raised an objection. The applicant has also filed affidavit of caveat on 21st December 2016 within the time prescribed. The applicant has thus filed this chamber summons inter alia praying for condonation of delay and seeks permission to file caveat in correct format dated 15th March 2016.

3. I have heard the learned counsel appearing for the applicant and have perused the averments made in the affidavit in support of the chamber summons. The applicant has sufficiently explained the delay of 89 days in filing the caveat. Earlier caveat filed by the applicant remained in office objection in view of the caveat not having been filed as per Form 116. The applicant is thus made out a case for condonation of delay in filing the caveat in the correct format, dated 15th March 2016 on record.

4. Notice of motion is made absolute in terms of prayer clauses (a) and (b).

5. Office is directed to accept the caveat dated 15th March 2016 in correct format filed by the applicant on record. It is made clear that the applicant is not required to file a separate affidavit in support of caveat since the same is already filed by the applicant.

R.D. DHANUKA, J.