

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
TESTAMENTARY AND INTESTATE JURISDICTION**

**NOTICE OF MOTION NO.247 OF 2016  
IN  
CAVEAT (L) NO.369 OF 2016  
IN  
TESTAMENTARY PETITION NO.802 OF 2014**

Smt. Shashi Wd/o. Keshavchandra Dwivedi ....Applicant/Caveator

**IN THE MATTER BETWEEN :**

Dinesh Chand Gupta ....Petitioner

Vs.

Smt. Shashi Wd/o. Keshavchandra Dwivedi ....Caveator

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Mr. Nitin R. Gandhi for petitioner.

Mr. Omprakash Pandey for applicant/caveator.

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**CORAM : K.R.SHRIRAM, J.**

**DATE : 5<sup>th</sup> APRIL, 2017**

**P.C.:**

1            Heard the counsel for applicant and also considered the affidavit in support wherein in paragraphs 2 and 3 the applicant has explained the reason why Caveat was not filed. The caveator is the married daughter of the deceased.

2            For reasons mentioned in the affidavit in support and in view of the fact that the caveator has a caveatable interest, in my view, the delay has to be condoned. One other reason why I am inclined to condone the delay is, the petition itself came to be dismissed for non removal of office objections and pursuant to an order dated 29<sup>th</sup> August, 2016, the petition

came to be restored. Coincidentally, the affidavit in support of notice of motion is dated 1<sup>st</sup> October, 2016.

3           In my view, no prejudice will be caused if the relief as sought in the notice of motion is granted. Therefore, the delay is condoned. The notice of motion accordingly stands disposed.

4           Registry to accept the Caveat and the affidavit in support of the Caveat, which Mr. Pandey, counsel for applicant states has already been lodged in the registry. Registry to take steps to convert the petition into a suit.

5           Suit be listed on 2<sup>nd</sup> May, 2017 for issues on which date parties to come with agreed draft issues and a separate list of issues on which they are unable to agree.

**(K.R. SHRIRAM, J.)**