

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO. 2 OF 2018
IN
TESTAMENTARY SUIT NO. 107 OF 2015
IN
TESTAMENTARY PETITION NO. 1137 OF 2013**

Mukesh Raishi Chheda	...Applicant
<i>In the matter between</i>	
Mukesh Raishi Chheda	...Plaintiff
<i>Versus</i>	
Dhirajlal Raishi Chheda	...Defendant

Mr Jatin Sheth, for the Applicant.
Mr Sarwankar, i/b Sarwankar & Co, for the Defendant.

CORAM: G.S. PATEL, J
DATED: 23rd January 2018

PC:-

1. This is an application to issue a witness summons to Mr Jayantilal Gada, Advocate and Notary Public, to appear in Court and to produce the documents mentioned in the schedule to the Chamber Summons.

2. I am informed that Mr Gada indicated to the Plaintiff that he would appear before Court on a witness summons being issued. Hence, this application.

3. The reason for the application is set out in paragraph 5 of the Affidavit in support of this Chamber Summons and it pertains to a translation or explanation of the Will said to have been done by Mr Gada to the Testator.

4. Issue a summons to Mr Gada returnable before the Commissioner for recording of evidence, Mr Gauraj Shah on 1st February 2018 at 5.15 p.m. in a Court room assigned for this purpose. The Advocates for the parties will communicate the Court room assigned to Mr Gada at least 24 hours in advance. Mr Shah is requested to record the cross-examination of Mr Gada.

- (a) The Commissioner is at liberty to exercise discretion under Order XVIII Rule 4(4) of the Code of Civil Procedure, 1908, to note the demeanour of the witnesses where necessary.
- (b) All cross-examination shall be conducted strictly in question and answer form.
- (c) The Commissioner will also be at liberty to direct that the whole or any part of the cross-examination should be video recorded for later reference of the court. Should that be done, the original audio visual recording will be submitted along with the Commissioner's Report to the Registry.

- (d) Liberty to the parties as also to the Commissioner to apply in case of difficulty.
 - (e) All re-examination will be conducted only in court.
 - (f) Costs of the commission shall be borne equally by the parties.
 - (g) Parties shall also pay costs of Rs. 500/- per hearing to the Court Clerk who attends the Commission with Court Papers. This is required since these clerks attend the commission in addition to their regular duties and outside their normal working hours;
 - (h) The Commissioner is not to permit any applications for adjournment on dates previously fixed, except where absolutely unavoidable. Counsel's inconvenience or unavailability does not constitute such unavoidability.
5. List the matter on 13th February 2018 for directions.
6. The Chamber Summons is disposed of in these terms. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J)