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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY & INTESTATE JURISDICTION

CHAMBER SUMMONS NO.41 OF 2018
IN
CAVEAT NO.347 OF 2017
IN
TESTAMENTARY PETITION NO.492 of 2017

K. Subramanya Karanth ...Applicant

IN THE MATTER BETWEEN :

Raghunandan U. Bangalorekar & Ors. ...Petitioners

V/s.

K. Subramanya Karanth ...Respondent

Mr.Jagdish Hegde for the Applicant in the Chamber Summons.

Ms.Meena Shah for the Respondents / Original Petitioners.

CORAM : R.D. DHANUKA, J.
DATE : 18TH DECEMBER, 2018.

P.C. :-

1. By this chamber summons, the applicant (caveator) seeks condonation of delay of 67 days wrongly mentioned as 154 days in prayer clause (a) of the chamber summons.
2. It is not in dispute that the caveat was served with citation on 11th September, 2017 and the caveat was filed on 21st September, 2017 i.e. within the time prescribed under the Bombay High Court (O.S.) Rules. The applicant had thereafter requested for

a copy of the testamentary petition which was served upon the applicant's advocate on 21st September, 2017.

3. In paragraphs 2 to 4 of the affidavit in support, the applicant has explained the delay in filing the affidavit in support of the caveat. I am inclined to accept such explanation in paragraphs 2 to 4 of the affidavit in support and condone the delay in filing the affidavit in support of the caveat.

4. For the reasons recorded in paragraphs 2 to 4 of the affidavit in support, the chamber summons is made absolute in terms of prayer clause (a).

5. Learned Prothonotary & Senior Master of this Court is directed to accept the said affidavit on record and convert the testamentary petition into the testamentary suit. The applicant is directed to pay Rs.5,000/- to the original petitioner within two weeks from today and shall produce a proof of payment of costs to the learned Prothonotary & Senior. Learned Prothonotary & Senior Master shall accept the affidavit in support of the caveat on record only upon the applicant producing the proof of payment of costs.

6. The chamber summons is disposed of in aforesaid terms.

(R.D. DHANUKA, J.)