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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO. 77 OF 2018
IN
TESTAMENTARY PETITION NO. 1639 OF 2016**

The State of Maharashtra	...Applicant
<i>Versus</i>	
Akhlaque Ahmed Mohammed	...Petitioner

Mr BG Saraf, *for the Petitioner.*
Mr US Upadhyay, *AGP for Caveator and Applicant .*
Mr Dayanand Jadhav, *API, Kurla Police Station, is present.*

CORAM: G.S. PATEL, J
DATED: 10th July 2018

PC:-

1. It seems the Caveator, one Mohammed Yakub Emtiyaz Ahmed Shaikh has filed a complaint against the Petitioner alleging that the Will that is the subject matter of this Testamentary Petition and Testamentary Suit is forged. This complainant, Mohammed Yakub Emtiyaz Ahmed Shaikh has already filed a Caveat in this Court.

2. I find it utterly extraordinary that an application comes to be made by the State of Maharashtra through the Senior Inspector of

Police, Kurla Police Station requesting authenticated copy of the Will in question. As part of this investigation, the Petitioner who is nearly 75 years old, has been repeatedly summoned to the Kurla Police Station. The Caveator will not use the State Government machinery in this fashion. It is open to the Defendant/Caveator in these very proceedings to obtain a forensic report as to the Will and to lead this evidence in this Court. In fact, it is this Court that will decide whether or not the Will is a forgery, since this is a case set up in these proceedings. The Defendant is not entitled to present this Court with a *fait accompli* by obtaining some ruling on forgery in parallel criminal proceedings and then seeking to bind the hands of this Court on a matter of evidence. It is one thing to seek a copy of the Will or inspection of it for reference to an expert, or even to the State Examiner of Documents, for an opinion. That expert opinion will have to be tested in this Court. It is quite another thing to run a parallel litigation on precisely the same issue that is raised before this Court. This is nothing but an attempt to over-reach this Court. The police does not have to be a party to this.

3. The Kurla Police will take appropriate note of the fact that there is a civil dispute pertaining to this document raising the same allegations of forgery and this dispute is pending before this Court.

4. The Chamber Summons is dismissed.

(G. S. PATEL, J)