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

CHAMBER SUMMONS NO.80 OF 2018
IN
CAVEAT (LODGING) NO.48 OF 2018
IN
TESTAMENTARY PETITION NO.1906 of 2017

Vithabai S. Birje

...Applicant

IN THE MATTER BETWEEN :

Anant S. Birje & Ors.

...Petitioners

Mr.Sameer Kolge for the Applicant.

Ms.Anita Vasani I/b Mr.Omprakash Pandey for the Respondent.

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

P.C. :-

1. By this chamber summons, the applicant seeks condonation of delay of 40 days in filing the caveat and the affidavit in support of the caveat.
2. Heard learned counsel for the parties and I have perused the affidavit in support of the caveat and also the affidavit in reply of the respondent no.1.
3. The chamber summons is opposed by the petitioners on the ground that the applicant has not annexed the prescription of

medicine or other supporting reports with the Doctor's certificate.

4. The certificate annexed would clearly indicate that the applicant is 68 years old and is suffering from various diseases and was under the treatment of Dr.S.M. Borkar since 28th December, 2017. I am inclined to accept the explanation rendered in the affidavit in support of the chamber summons and more particularly paragraphs 2 and 3. There is no substance in the submissions made by the learned counsel for the petitioner that the certificate issued by the Doctor was required to be accompanying with the medical report or prescription.

5. For the reasons recorded in paragraphs 2 and 3 of the affidavit in support of the chamber summons, the delay of 40 days in filing the caveat and the affidavit in support of the caveat is condoned.

6. The Prothonotary & Senior Master of this Court is directed to accept the said caveat and affidavit in support thereof and to convert the testamentary petition into testamentary suit. No order as to costs.

(R.D. DHANUKA, J.)