

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO. 111 OF 2018
IN
TESTAMENTARY SUIT NO. 9 OF 2018**

Shubhada Sitaram Sawal ...Plaintiff
Versus
Harishchandra Mahadev Walawalkar & Ors ...Defendants

Mr Dushyant Purekar, for the Plaintiff.
Mr Satyaprakash Sharma, i/b Shashikant D Chandak, for the
Defendants.

CORAM: G.S. PATEL, J
DATED: 19th September 2018

PC:-

1. Affidavit of Service is taken on file.

2. The Chamber Summons is required by the Bombay High Court Original Side Rules, but is wholly unnecessary and a relic of an earlier time. This is how that Rule operates. After a Caveat and an Affidavit in Support are filed to oppose a petition, Rule 404 tells us that the hapless Plaintiff must, on the Petition being renumbered as a Suit, then file a Chamber Summons for directions. This means that he must serve it, presumably await a reply, and plan on filing a

Rejoinder. All this is supposed to be done for one purpose only: so that the Testamentary Suit can be listed — for directions. When that happens, a date will be fixed for framing issues. On that date, issues will, subject to the matter reaching, be framed. I do not see how this Rule achieves any purpose other than delayed an already much delayed administration of an estate.

3. I am making it clear that I will not require at any stage adherence to or compliance with this Rule. The Registry is directed to ensure that once a caveat with its supporting affidavit, or, as the case may be, an opposition Affidavit is filed, that Testamentary proceeding is to be routinely placed for framing issues and directions three weeks thereafter.

4. I will immediately taking up the Testamentary Suit for framing issues and issuing directions for trial. In view of this, Mr Purekar does not press the Chamber Summons, and says (correctly) that it is infructuous. Indeed it is.

5. The Chamber Summons is disposed of as infructuous.

(G. S. PATEL, J)