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

CHAMBER SUMMONS NO.118 OF 2018
IN
TESTAMENTARY SUIT NO.46 OF 2018
IN
TESTAMENTARY PETITION NO.1872 OF 2017

Mr.Girdharlal N. Dalal ...Deceased

Mr.Chetan S. Dalal ...Applicant

IN THE MATTER BETWEEN :

Mr.Chetan S. Dalal ...Petitioner

V/s.

Bharat K. Dalal ...Defendant

Ms.Dhruti Chheda I/b Mr.Yashpal Jain for the Applicant.

Mr.Malcolm Sigamporia with Mr.H. Mehta and Mr.Ahsan Allana I/b
M/s. J. Sagar Associates for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 9TH JANUARY, 2019.

P.C. :-

1. Heard learned counsel for the parties and have perused the affidavit in support of the chamber summons and also affidavit in reply.

2. By this chamber summons, the applicant seeks amendment to the petition in terms of the Schedule – I appended to the chamber summons. The applicant seeks to add certain properties

which form part of the estate of the deceased. It is the case of the applicant that while filing the testamentary petition, some of the assets were missed out inadvertently which the applicant seeks now to include through the proposed amendment. The applicant had filed a praecipe dated 14th February, 2018 to carry out the proposed amendment. In view of the caveator already having filed the caveat, no order on that praecipe could be passed.

3. In my view, the applicant has made out the case of amendment of the testamentary petition for the reasons recorded in the affidavit in support of the chamber summons and more particularly in paragraph 2 thereof. No prejudice would be caused to the caveator if this amendment is allowed.

4. The chamber summons is made absolute in terms of prayer clauses (a) and (b). The amendment to be carried out within two weeks from today. It is made clear that merely because the amendment is allowed as prayed, the defendant has not admitted the contents of the amendments allowed by this Court. The defendant would be at liberty to file an additional affidavit in support of the caveat within two weeks from the date of service of the amended copy of the plaint and shall serve a copy thereof upon the applicant's advocate simultaneously. The defendant is directed to serve a copy of the affidavit in support of the caveat already filed in the

testamentary petition upon the applicant's advocate within one week from today.

5. The chamber summons is allowed in aforesaid terms.

There shall be no order as to costs.

(R.D. DHANUKA, J.)