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

CHAMBER SUMMONS NO.161 OF 2018
IN
MISC. PETITION NO.42 OF 2018
IN
PETITION NO.1651 OF 2013

Chandrakant M. Jadhav

...Applicant

IN THE MATTER BETWEEN :

Chandrakant M. Jadhav

...Petitioner

V/s.

Mandar M. Jadhav

...Respondent

Ms.Preeti Kashikar with Mr.Sanyukta Kamat I/b Ms.V.R. Kalekar for
the Applicant.

Mr.P.N. Ganwani with Mr.B.G. Saraf for the Respondent.

CORAM : R.D. DHANUKA, J.

DATE : 5TH MARCH, 2019.

P.C. :-

1. By this chamber summons, the applicant seeks amendment of various grounds and averments in the Miscellaneous Petition No.42 of 2018. By the said Miscellaneous Petition, the applicant has prayed for revocation and cancellation of the Letter of Administration issued by this Court in Petition No.1651 of 2013 on various grounds.

2. A perusal of the schedule appended to the chamber

summons indicates that the applicant seeks to add the additional averments and the grounds on record in respect of the prayer for revocation of the Letters of Administration issued by this Court.

3. Mr.Ganwani, learned counsel appearing for the respondent states that the petitioner has already raised a ground of fraud in the grounds raised in the miscellaneous petition and thus the amendment as sought would not be necessary and if allowed by this Court would amount to multiplicity of proceedings.

4. Insofar as the issue as to whether there would be multiplicity of proceedings is concerned, there is no merit in this submission. The applicant is seeking to add certain grounds and averments in the miscellaneous petition and thus there is no question of multiplicity of proceedings.

5. Insofar as the submission of Mr.Ganwani, learned counsel for the respondent that the applicant has already raised the ground of fraud in the miscellaneous petition and thus the amendment is unwarranted is concerned, a perusal of schedule appended to the chamber summons, the applicant seeks to add certain grounds and averments in support of the plea of fraud already raised in the miscellaneous petition.

6. In my view, no prejudice would be thus caused to the respondent if the amendment as prayed is allowed.

7. I therefore, pass the following order :-
- a). The chamber summons is made absolute in terms of prayer clause (a). The amendment to be carried out within two weeks from today. It is made clear that merely because this court has permitted the amendment as prayed in terms of the schedule appended to the chamber summons, none of the allegations made by the applicant or proposed to be brought on record by virtue of the schedule to the chamber summons are accepted by the respondent. All the contentions on merits are kept open.
- b). The respondent would be at liberty to file an additional affidavit in reply to the amended copy of the miscellaneous petition and the notice of motion within one week from the date of service of the amended copy of the miscellaneous petition and notice of motion.
- c). A copy of the amended petition and the notice of motion shall be served upon the respondent within one week from the date of carrying out amendment.
8. The chamber summons is disposed of in aforesaid terms. There shall be no order as to costs.

(R.D. DHANUKA, J.)