

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
INTERIM APPLICATION NO. 1837 OF 2021
IN
CHAMBER SUMMONS NO. 156 OF 2019
IN
TESTAMENTARY PETITION NO. 2189 OF 2018
(TESTAMENTARY SUIT NO. 110 OF 2021)**

Farah Farrokh Jijina ...Applicant/
Petitioner

Versus

Noshir Jamshed Lala ...Caveator

CHAMBER SUMMONS NO. 156 OF 2019

IN

CAVEAT NO. 81 OF 2019

IN

TESTAMENTARY PETITION NO. 2189 OF 2018

Noshir Jamshed Lala ...Applicant

In the matter between

Farah Farrokh Jijina ...Petitioner

Versus

Noshir Jamshed Lala ...Caveator

ARUN
RAMCHNDRA
SANKPAL

Digitally signed by
ARUN RAMCHNDRA
SANKPAL
Date: 2021.10.11
17:14:55 +0530

**Mr Vishal Kanade, i/b Siganporia & Dalvi, for Petitioner & Applicant
in IA/1837/2021.**

Mr A Davar, with Ms Kirti Ojha, i/b Udvardia & Co, for Caveator &

Applicant in CST/156/2019.

CORAM: G.S. PATEL, J

DATED: 8th October 2021

PC:-

1. The Interim Application and the Chamber Summons can be disposed of thus.
2. Interim Application No. 1837 of 2021 seeks a discharge or dismissal of the Caveat. Mr Kanade appears for the Petitioner.
3. The Interim Application may be a little premature.
4. There is a Chamber Summons No. 156 of 2019 which seeks to condone a delay of 113 days in filing the Affidavit in Support. Obviously, Mr Kanade's application for discharge of the Caveat cannot be taken up unless there is a proper Caveat to begin with, i.e. until the delay is condoned. Instead of going down this road, Mr Kanade submits that the delay may be condoned. The Petition may be directed to be renumbered as a Suit, and directions be issued for a quick and early trial. That is eminently reasonable.
5. The delay is condoned. The Affidavit in Support of the Caveat is to be filed in the registry. The Interim Application for discharge of the Caveat is dismissed as unconditionally withdrawn. Both the Interim Application and the Chamber Summons are disposed of in these terms. No costs.

6. Consequently, the Testamentary Petition is now to be renumbered as a Suit and has to be taken for framing issues.
7. In the spirit of things, I will now proceed to do frame issues immediately.
8. The Registry will renumber the Suit by Monday, 11th October 2021 so that the orders can be uploaded correctly.
9. Issues are framed and these are appended to this order.
10. The Plaintiff shall, on or before 22nd November 2021, file (i) the affidavit(s) of the attesting witness(es) (ii) the evidence affidavit of the Plaintiff; (iii) an affidavit of documents; and (iv) a compilation of documents duly indexed and paginated. Copies of each of these will be served on the advocates for the Defendant on or before that date.
11. If the Plaintiff does not comply by that or by such date as may be extended by an order of the Court on the application made by the Plaintiff, the Plaintiff may be deemed to have closed his case.
12. Once the Plaintiff has completed these filings, discovery and inspection will be complete within one week thereafter.

13. Suit to be listed for directions on 6th December 2021 for marking the Plaintiffs' documents.

14. All concerned will act on production of a digitally signed copy of this order.

(G. S. PATEL, J)

ISSUES FRAMED ON 8TH OCTOBER 2021

TESTAMENTARY SUIT NO. 110 OF 2021

IN

TESTAMENTARY PETITION NO. 2189 OF 2018

Farah Farrokh Jijina

...Plaintiff

Versus

Noshir Jamshed Lala

...Defendant

1. Whether the Plaintiff proves that the writing dated 6th May 2001 was duly and validly executed and attested in accordance with law as the Last Will and Testament of the deceased, Soli Sorabji Pardiwalla?
2. Whether the Defendant proves that the alleged Will is forged?
3. Whether the Defendant proves that the alleged Will is fabricated?
4. Whether the Defendant proves that the alleged Will is unnatural?
5. What reliefs and what orders?

(G. S. PATEL, J.)