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

INTERIM APPLICATION NO.2650 OF 2022
IN
CAVEAT (L) NO.9264 OF 2020
IN
TESTAMENTARY PETITION NO.3652 OF 2021

Mr. Rahul Rajindernath Khanna

...Applicant /
Caveator

In the matter between
Commander Sarath Manari Gopinathan & Anr. ...Petitioners

And

Sonal Sunil Kothare @ Sonal Rahul Khanna ...Deceased

Ms. Anita Bhaktwani for the Applicant / Caveator.
Manari Sarath, Petitioner is person.
Milind Ingole for Peititoner No.2.

CORAM : R.I. CHAGLA J.

DATE : 18TH NOVEMBER, 2022

ORDER :

1. Heard learned Counsel for the parties. The Petitioner
No.1 appears in person.

2. By this Interim Application, the Applicant is seeking

condonation of delay of 92 days in filing the Affidavit in Support of the Caveat.

3. The Applicant has stated that the citation was served on April, 2022. The Caveat had been filed prior thereto i.e. on 11th March, 2021. The Applicant has stated that in view of the Covid 19 pandemic, there was extension of limitation for filing the Affidavit in Support to the Caveat. The delay has been stated to be of 92 days which the Applicant has stated is neither intentional nor deliberate. The Applicant has stated that he is a layman not aware of the intricacies of the legal procedure and had appointed his Advocate to do the needful and thus the Applicant should not be made suffer on account of the default of the Advocate.

4. I have considered the averments in the Interim Application as well as noting that the citation was only served in April, 2022 i.e. after the Caveat had been filed as aforementioned. Though, there is delay in filing the Affidavit in Support which is to be filed within 14 days from service of citation, the Applicant should not be made to suffer on account of the default of the Advocate. Accordingly, the relief sought for in the Interim Application is

granted. Hence, the following order:-

(i) The delay of 92 days in filing Affidavit in Support to the Caveat is condoned.

(ii) The Testamentary Registry shall accept the Affidavit in Support of the Caveat.

(iii) The Interim Application is accordingly disposed of.

[R.I. CHAGLA J.]