

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

INTERIM APPLICATION NO.1279 OF 2023

IN

CAVEAT (L) NO.36711 OF 2022

IN

PETITION NO.2055 OF 2022

Maulik Dhiraj Chheda

: Applicant/Caveator No.2

In the matter between

Premila Bharat Shah and anr.

: Petitioners

versus

Paresh Vasantlal Shah and ors.

: Caveators.

Mr. Bhavin Gada a/w Mr. Sumeet Bhansod i/by Law Loyals for the Applicant.

Ms. Anjana Modhave for the Petitioner in Petition No.2055 of 2022.

CORAM : ARIF S. DOCTOR, J.

DATE : 24th APRIL 2023

P.C. :

1. The present Interim Application has been filed by the Applicant/Caveator No.2 for condonation of delay of 44 days in filing the Affidavit in support of Applicant's caveat.

2. Ms. Modhave, Learned Counsel for the Petitioner, does not, in

fairness, oppose the present Interim Application for condonation of delay, however, she submits that the contentions stated in the Affidavit in support of the Caveat are false. Naturally this is a question that will have to be determined in the course of hearing of what will be now called converted Testamentary Suit.

3. In view thereof, by allowing the present Interim Application it can by no stretch of imagination be said to mean that the Petitioner has accepted the contentions stated in the Affidavit in support of the caveat. Mere condonation of delay does not in any manner mean that what is stated in the Affidavit in support of the Caveat is true.

4. With the aforesaid observations, the present Interim Application is allowed in terms of prayer clause (a) which reads thus :-

“(a) this Hon’ble Court be pleased to condone the delay of 44 days in filing of the Affidavit dated 12th January 2023 in support of the Applicant’s/Caveator No.2 caveat to the above Petition and to take the same on record thereof.”

5. Office to convert the Testamentary Petition into Testamentary Suit in accordance with law.

6. Learned Counsel for the Applicant submits that he will file the Affidavit in support of caveat by e-filing and that process may take some time, and therefore, he requests one week's time for the same. Time as prayed for is granted. Affidavit to be filed by e-filing on or before 2nd May 2023.

7. The present Interim Application is accordingly disposed of.

(ARIF S. DOCTOR, J.)