

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO.41 OF 2019
IN
TESTAMENTARY PETITION NO.5 OF 1989**

Bhogilal Hargovinddas Patel	... Deceased
Pranlal Bhogilal	... Petitioner
And	
Chamundeshwari Bhogilal-Chinai	... Applicant

Mr. U. J. Makhija, Counsel with Mr. Shankar V. Mhatre h/f Ms. Kusum Poojary
for the Applicant.

CORAM : ARIF S. DOCTOR, J.
DATE : 13TH FEBRUARY 2023

P.C. :

1. The present Chamber Summons has been filed for condonation of delay for a period of 2876 days as also substitution of the Applicant in place and stead of the Petitioner, who passed away on 12/01/2011.

2. The Chamber Summons sets out that the Applicant is the only daughter and sole surviving legal heir of the Petitioner in Testamentary Petition No.5 of 1989, who passed away intestate. The deceased died leaving behind him his wife (deceased) and the Applicant as his only legal heirs and next of kin

according to the provisions of the Hindu Succession Act, 1956. Thus, today, the Applicant is the only legal heir of the deceased.

3. The Applicant became aware of the fact, that the present Testamentary Petition has been filed, only in the year 2017 during the course of cross-examination in Suit No.1351 of 1984 filed in the City Civil Court, Bombay. On becoming aware of the factum of filing of the Testamentary Petition, the Applicant made inquiry with the Advocates and obtained certified copies of the said Testamentary Petition. On being furnished with copies of the Testamentary Petition, the Applicant filed the present Chamber Summons seeking to implead the Applicant's name in place and stead of the deceased Petitioner (father of the Applicant).

4. Learned Counsel appearing on behalf of the Applicant submits that the consent affidavits of all the legal heirs of the deceased have also been filed. All due compliance has been done. There is no contest to the present Testamentary Petition.

5. In view thereof, I find that there is no impediment in granting the present Chamber Summons in the interest of justice and to continue the proceedings for the Letters of Administration. The Chamber Summons is therefore allowed in terms of prayer clauses (a) and (b), which read as under :-

“(a) That the delay of 2876 days in taking out the present Chamber Summons be condoned;

(b) That the present Applicant be substituted as the Petitioner in place of the Original Petitioner, who died on 12th day January, 2011 and the Applicant be permitted to amend the Petition accordingly;”

6. The Chamber Summons is disposed of accordingly.

7. Learned Counsel appearing on behalf of the Applicant undertakes to comply all the office requisitions.

(ARIF S. DOCTOR, J.)