

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

**INTERIM APPLICATION NO. 1733 OF 2024
IN
CAVEAT IN TESTAMENTARY(L) NO. 11195 OF 2024**

Madhavi Sanjeev Premchand ...Applicant

Versus

Jyoti Nikhil Jasani ...Respondent

**WITH
INTERIM APPLICATION (L) NO. 15014 OF 2024
IN
CAVEAT IN TESTAMENTARY(L) NO. 10494 OF 2024
WITH
TESTAMENTARY PETITION NO. 4466 OF 2023
WITH
WILL NO. 1848 OF 2023**

Mr. Nirav Shah i/by Little and co. for petitioner.

Mr. Jehan Lalkaka a/w Niyati Kothari i/by Tyabji Dayabhai for
Applicant in IA(L) No.15014/2024 and IA/1733/2024.

CORAM : N. J. JAMADAR, J.
DATE : 10th JULY 2024

PC.:

1. Heard the learned Counsel for the applicant and Petitioner.
2. These applications are preferred for condonation of 19 days and 24 days delay respectively in filing the affidavit in support of the Caveat.
3. Nikhil Jasani (deceased) was the father of the applicant.

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The deceased passed away on 15th February 2023. Jyoti Jasani, the petitioner is the wife of the deceased and step-mother of the applicant. The petitioner has propounded a Will dated 26th November 2022 under which the petitioner is purported by the sole beneficiary.

4. In the application, the applicants have averred that there was delay in filing the affidavit in support of the Caveat as the applicants were trying to obtain various medical records and other documents of the deceased.

5. The petitioner has filed an affidavit contesting the reason ascribed in the application for condonation of delay.

6. The learned Counsel for the petitioner made an endeavour to urge that the applicants were aware that the deceased had made Will and a petition had already been filed by the petitioner and, yet there was delay in filing the affidavit in support of the caveat. The reasons ascribed by the applicants, according to learned counsel for the applicant, are not justifiable.

8. I have perused the averments in the application and the affidavit-in-reply. The applicants are the daughters of the deceased. The fact that they have a caveatable interest can

hardly be put in contest. The period of delay cannot be said to be inordinate, by any standard. The applicants have ascribed justifiable reasons for condonation of delay. It is trite that an application for condonation of delay should receive liberal consideration so as to advance the cause of substantive justice.

9. For the foregoing reasons, I am inclined to allow the application.

10. Applications stand allowed.

11. The delay in filing affidavit in support of the caveat stands condoned.

12. Testamentary Petition be converted into Testamentary Suit.

(N. J. JAMADAR, J.)