



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

INTERIM APPLICATION NO. 7402 OF 2025
IN
CAVEAT (L) NO. 28247 OF 2024
IN
TESTAMENTARY PETITION NO.1418 OF 2015

Dolly Burjorji Mehta	... Applicant
<u>In the matter between:</u>	
Jyoti Vinod Shirkh	... Petitioner/Caveatee
<u>Versus</u>	
Dolly Burjorji Mehta	... Caveator.

Mr Bhalchandra Saraf, for the Applicant/Petitioner.
Mr Kuber Wagle i/by Purazar Fouzdar-Caveator
Mr Vrushabh Sarla – Caveator.

Coram : Sharmila U. Deshmukh, J.
Date : December 04, 2025

P.C. :

1. Interim Application has been preferred seeking condonation of delay of 381 days caused in filing the affidavit in support of the caveat.
2. Learned counsel appearing for the Applicant submits that the Applicant was served with the citation on 7th August, 2024 and the caveat was filed on 22nd August, 2024 i.e. on the 14th day. He would further submit that the affidavit in support of the caveat was filed on 26th August, 2024 within 8 days of filing of the caveat. However, the same was not accepted by the Registry for non-removal of office

objections and was processed only on 11th September, 2024. He submits that though the caveat as well as the affidavit in caveat was duly filed within the prescribed timelines, it is only because of the non removal of office objections that the same was not accepted. Hence, the present application has been filed for permission to take on record the affidavit in support of the caveat and to condone the delay of 381 days.

3. Learned counsel appearing for the original-Petitioner objects to the application and submits that it was incumbent upon the caveator to ensure compliance with Rule 401 of the Bombay High Court Original Side Rules, 1960 and remove the office objections. He submits that no indulgence is required to be shown as there is substantial delay of 381 days.

4. It is not undisputed that the caveat had filed within the prescribed timeline of 14 days from the date of service of citation and the affidavit in support of caveat was filed within 8 days of the filing of caveat i.e. on 26th August, 2024. It is only by reason of certain objections raised by the Registry that the caveat was not accepted and the Registry had directed the Applicant to file the hard copy with the Registry. There is therefore sufficient explanation for the delay in filing of the affidavit in support of caveat which is only a technical delay.

5. In light of the above, Interim Application is allowed.

6. Stand over to 7th January, 2026, under the caption for "direction".

[Sharmila U. Deshmukh, J.]