

SHEPHALI

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION NO. 82 OF 2016**

IN

MISCELLANEOUS PETITION (L) NO. 489 OF 2015

IN

TESTAMENTARY PETITION NO. 458 OF 2010

Champabai Vitthal Ughade & 4 Others	...Petitioners
<i>Versus</i>	
Changunabai Vitthal Ughade	...Respondent

Mr. Anand Mishra, *i/b Mr.A. M. Saraogi*, *for the Petitioners.*
Mr. Sanjeev Sawant, *for the Respondent.*

CORAM: G.S. PATEL, J
DATED: 8th July 2016

PC:-

1. There is undoubtedly a delay in filing the Notice of Motion for restoration of the Miscellaneous Petition. Having heard both sides, I am inclined to restore the Miscellaneous Petition for the limited reason that the Petitioners in that Miscellaneous Petition have not been heard at all; and also having regard to their occupation and status in life.

2. Mr. Sawant for the Respondent is correct in pointing out that there are important facts that have not been disclosed. He will undoubtedly be entitled to argue all these at the time of hearing of the Miscellaneous Petition.

3. At the same time, I am not prepared to give the Petitioner in the Miscellaneous Petition four weeks' time to remove office objections. I will give him a maximum of one week time and no more. I am making it clear that if on restoration, those objections are not removed by 18th July 2016, the Miscellaneous Petition will stand dismissed without further reference to the Court and will not be restored thereafter.

4. Mr. Sawant presses for costs. I must have regard to the status of the parties. I do; and I decline the application.

5. The Notice of Motion is made absolute in the following terms: delay condoned. The Miscellaneous Petition (L) No. 489 of 2015 is restored to file. As noted earlier, all objections to be removed by 18th July 2016 and no later. In default, the Petition will stand dismissed without further reference to the Court and will not be restored thereafter.

(G. S. PATEL, J.)