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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

NOTICE OF MOTION NO. 209 OF 2016

IN

NOTICE OF MOTION (L) NO. 129 OF 2016

IN

TESTAMENTARY PETITION NO. 916 OF 2011

WITH

NOTICE OF MOTION (L) NO. 129 OF 2016

Vidula Rajesh Musale

...Petitioner

And

Rajesh Sadashiv Musale

...Deceased

Mr. Indrajeet R. Kulkarni, for the Petitioner/Applicant.

CORAM: G.S. PATEL, J

DATED: 25th October 2016

PC:-

1. The Testamentary Petition for Letters of Administration is one of 2011. It was dismissed for default by a common order dated 28th August 2013 (R.D. Dhanuka, J.). The Petitioner filed Notice of Motion (L) No. 129 of 2016. That was dismissed for non-removal of office objections by the Prothonotary & Senior Master by his order dated 12th July 2016.

2. Now the Petitioner files Notice of Motion No. 209 of 2016 for restoration of Notice of Motion (L) No. 129 of 2016 and which sought restoration of the Testamentary Petition. This is altogether too many steps to go through.

3. I will, as a final opportunity, restore Testamentary Petition No. 916 of 2011 itself. The default is that of the Advocate or his Clerk, or both. This is no excuse at all and it is certainly no reason why the Petitioner should have to suffer either the delay or costs.

4. Testamentary Petition No. 916 of 2011 is restored to file, subject to payment of costs personally by the Advocate in the amount of Rs. 10,000/- payable to the “Maharogi Seva Samiti” which runs the project ANANDWAN, set up by Baba Amte, an Ashram and a community rehabilitation centre for leprosy patients and the disabled from downtrodden sections of society. Mr. Kulkarni, in fairness, accepts responsibility and agrees to make payment of costs on or before 25th November 2016.

5. Subject to the proof of payment, Testamentary Petition No. 916 of 2011 is restored to file. All office objections to be removed on or before 13th January 2017. In default, the Petition will stand dismissed and will not be restored thereafter under any circumstances.

6. In view of this order, both Notices of Motion are infructuous and are disposed of accordingly.

(G. S. PATEL, J.)