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

NOTICE OF MOTION NO.16 OF 2015
IN
TESTAMENTARY SUIT NO.43 OF 2002
IN
TESTAMENTARY PETITION NO.548 OF 2000

Mrs.Kate J. Alvares

...Applicant

IN THE MATTER BETWEEN :

Mrs.Kate J. Alvares

...Plaintiff

V/s.

Ms.Hazel Fernandes

...Defendant

Mr.Savio Viegis for the Applicant / Plaintiff.

Mr.K.T. Kukreja i/b M/s.Kukreja & Co. for the Defendant.

CORAM : R.D. DHANUKA, J.
DATE : 18TH JULY, 2017.

P.C. :-

1. By this notice of motion, the applicant has prayed for condonation of delay, if any, in filing the notice of motion and for restoration of the Testamentary Suit No.43 of 2002 and Testamentary Petition No.548 of 2000 and for recall of the order dated 7th January, 2015 passed by this Court dismissing the aforesaid proceedings for default.

2. Learned counsel appearing for the applicant invited my

attention to the reasons recorded by the applicant in the affidavit in support of the notice of motion. I have heard the parties.

3. In my view, the applicant has satisfactorily explained the reasons for remaining absent before this Court when the matter was called out. I do not find any substance in the objections raised by the defendant in the affidavit in reply. The applicant has also annexed a Doctor's certificate showing that the applicant was under his treatment for viral fever, when the matter was dismissed by this Court.

4. The notice of motion is made absolute in terms of prayer clauses (a) and (b). If any interim orders are passed by this Court in those proceedings, the same are also restored. No order as to costs.

(R.D. DHANUKA, J.)