

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

NOTICE OF MOTION NO. 39 OF 2017

IN

TESTAMENTARY PETITION NO. 182 OF 2014

Bhikaji Sahadev Pawar] Applicant/Petitioner

IN THE MATTER BETWEEN

Keshav Govind Gawade] Deceased
Bhikaji Sahadev Pawar] Petitioner

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Mr. Sachin Masurkar a/w Ms. Ekta Pednekar, for petitioner in T.P. No. 671 of 2013 and respondent in T.P. No. 182 of 2014 and respondent in NMT No. 39 of 2017.

Ms. Priyanka Kothari i/b R.J. Pereira for respondents in T.P. No. 671 of 2013 and petitioner in T.P. No. 182 of 2014 and applicant in NMT No. 39 of 2017.

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CORAM : R.G. KETKAR, J.

DATE : 9th AUGUST, 2017.

P.C.

Heard Ms. Kothari, learned Counsel for the applicant and Mr. Masurkar, learned Counsel for the respondent.

2. By this Motion, the petitioner has prayed for recalling the order dated 2nd May, 2016, thereby, restoring Petition No. 182 of 2014 to it's original position after condoning delay of 215 days in taking out Motion.

3. Ms. Kothari Submitted that by order dated 2nd May,

2016 passed by this Court in various matters including Petition No. 182 of 2014, time to remove office objections was granted. She assures that before next date of hearing, petitioner will remove all office objections and in case, the petitioner does not remove office objections, order dated 2nd May, 2016 may be ordered to be revived without further reference to the Court. She further states that respondent has filed reply dated 14th April, 2017 levelling personal allegations against her. Said allegations may be treated to have been denied by her.

4. On the other hand, Mr. Masurkar strenuously opposed the Motion on the ground that no sufficient cause is made out for condonation of delay of 215 days. That apart, the petitioner is delaying hearing of Petition No. 671 of 2013 filed by the respondent. He further submitted that the petitioner does not have caveatable interest. He has taken me through affidavit filed by the respondent.

5. As noted earlier, by order dated 2nd May, 2016, petition was dismissed for non removal of office objections. As the learned Counsel for the petitioner has assured that before next date of hearing, all the office objections will be removed, in my opinion, interest of justice demands that Petition be restored to file. It is made clear that in case, office objections are not removed before the next date of hearing, order dated 2nd May, 2016 shall stand revived without further reference to the Court. Subject to this, Motion is made absolute in terms of prayer clauses (a) and (b)

with no order as to costs.

6. List the Petition No. 182 of 2014 along with Petition No. 671 of 2013 for admission on 21st August, 2017 high on board.

[R.G. KETKAR, J.]