

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

**NOTICE OF MOTION NO.79 OF 2017
IN
MISCELLANEOUS PETITION NO.63 OF 2015
IN
TESTAMENTARY PETITION NO.709 OF 2012**

Shri Gururaj S/o. Vasudev Desai
And Others ... Applicants

Between :

Shri Gururaj S/o. Vasudev Desai
And Others ... Petitioners
Versus

Vithal S/o. Pandurang Dandi And
Others ... Respondents

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Mr. Ganesh S. Bhat for the Applicants.
Ms. Beena Menon for Respondent Nos.1 to 3.

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CORAM : S.C.GUPTE, J.

DATE : 4 OCTOBER 2017

P.C. :

. Heard learned Counsel appearing for the parties.

2 This notice of motion is for recall and setting aside of an order of dismissal dated 28 February 2017. The petition was dismissed on that day for default of appearance. Learned Counsel for the Respondent opposes the notice of motion. The petition was called out on 14 February 2017, when the Petitioners were represented by the Advocate, the Respondents

were absent and the matter was adjourned to 20 February 2017. On 2 February 2017, by the time the matter was called out, Advocate of the Petitioners had left the court premises, since, he was unwell. The petition was dismissed for default. In the premises, the notice of motion i allowed by setting aside the order of dismissal passed on 20 February 20 7. The Miscellaneous Petition is restored to file and shall be heard on me its.

2 The petition to come up for directions on 30 October 2017.

(S.C. GUPTE, J.)