

vai

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

NOTICE OF MOTION NO.108 OF 2017
IN
TESTAMENTARY PETITION (LODGING) NO.806 OF 2010

Rusi N. Rutnagar ...Applicant

IN THE MATTER OF :

Adi J. Rutnagar ...Deceased

Rusi M. Rutnagar ...Applicant

Mr.Ashwin Shete with Mr.Suyoga Rajguru, intern Ms.Bhoomi Kurup
i/b Jayakars & Partners for the Applicant / Original Petitioner.
None for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 30TH JUNE, 2017.

P.C. :-

1. By this notice of motion, the applicant seeks condonation of delay of 1700 days and seeks recall of the order dated 5th July, 2012 passed by this Court dismissing Testamentary Petition (Lodging) No.806 of 2010 for not removing the office objections. Learned counsel for the applicant invited my attention to the averments made in paragraphs 3 to 10 of the affidavit in support of the notice of motion which shows that several proceedings filed by the applicant were dismissed by the learned Prothonotary & Senior Master which were not maintainable. Learned counsel submits that

this Court may put to the applicant on terms for recall of the order dated 5th July, 2012 passed by this Court and for condonation of delay of 1700 days in filing this notice of motion. He undertakes to remove all the office objections within four weeks from today.

2. The applicant has agreed to pay cost by way of donation in the sum of Rs.25,000/- to the High Court Law Library within two weeks from today. The statement is accepted. The receipt of donation shall be produced before the learned Associate of this Court. It is made clear that if the amount of costs is not paid within two weeks from today as agreed aforesaid, the order passed by this Court condoning the delay and for recalling the order dated 5th July, 2012 to stand vacated without further reference to the Court.

3. Subject to payment of costs referred to aforesaid, the notice of motion is made absolute in terms of prayer clauses (a), (b) and (c). All office objections shall be removed within four weeks from today, failing which the testamentary petition as well as Chamber Summons (Lodging) No.133 of 2012 to stand dismissed.

4. At this stage, leaned counsel for the applicant seeks liberty to withdraw Chamber Summons (Lodging) No.133 of 2012. The Chamber Summons (Lodging) No.133 of 2012 is dismissed as withdrawn.

(R.D. DHANUKA, J.)