

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

NOTICE OF MOTION NO. 126 OF 2017

IN

PETITION [L] NO. 71 OF 2014

Narayan Rajaram Patki] Deceased

Mr. Arun Narayan Patki] Petitioner

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Ms. Sunita Khamkar, for petitioner/applicant.

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CORAM : R.G. KETKAR, J.

DATE : 16th AUGUST, 2017.

P.C.

Heard Ms. Khamkar, learned Counsel for the applicant/petitioner.

2. By this Motion, petitioner has prayed for setting aside the order dated 19th August, 2014 passed by Prothonotary and Senior Master, thereby, restoring Petition to its original position after condoning delay of 961 days in taking out present Motion.

3. In support of this Motion, Ms. Khamkar submitted that petitioner had instituted Testamentary Petition [L] No. 71 of 2014 for Letters of Administration with will annexed to the property and credits belonging to Shri Narayan Rajaram Patki [since deceased]. The Petition was affirmed on 14th August, 2013 and the same was filed through earlier Advocate Mr. Bhatt. On 19th August, 2014,

the Petition was dismissed under Rule-986 of Original Side Rules for non removal of office objections. She submitted that office objections were;

[1] Non payment of Court Fees.

[2] Not submitting original Will and petitioner's oath.

4. Ms. Khamkar has taken me through the affidavit dated 3rd May, 2017 made by the petitioner and in particular paragraphs 1 to 7 and submitted that for the reasons set out therein, delay may be condoned. She assures that after restoration of the Petition, she will remove office objections within two weeks from today.

5. In view thereof and for the reasons set out in the affidavit in support, I am satisfied that petitioner has made out sufficient cause for condoning delay as also for setting aside order dated 19th August, 2014. Notice is made absolute in terms of prayer clauses (a) and (b). Testamentary Petition [L] No. 71 of 2014 is restored to its original position. The petitioner shall remove office objection within two weeks from today.

[R.G. KETKAR, J.]