

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

**NOTICE OF MOTION NO.213 OF 2016
IN
TESTAMENTARY PETITION NO.962 OF 2010**

Virander KumarApplicant

IN THE MATTER BETWEEN :

Indira Bansilal KhuranaDeceased

V/s.

Virander KumarPetitioner

Mr.Jainish Jain i/by Swati S.Gala for the petitioner/applicant.

**CORAM : K.R.SHRIRAM,J
DATE : 11.1.2017**

P.C.:-

1 This Notice of Motion is taken out for recalling the self operative order dated 10.7.2012 whereby the petition came to be dismissed under Rule 435 of the High Court (O.S) Rules. There is a delay of 1485 days. In the affidavit in support it is stated that the applicant who is the Constituted Attorney of the petitioner and also one of the legal heir was diagnosed with cancer and he was under going treatment and hence could not remain in touch with the advocate. It is also to be noted that the legal heirs 2A & 2B have also consented to the Probate be granted as stated in the petition. Though I do not find copy of the consent affidavit at serial no.2 that is Dr.Mrs.Sudesh Bhalchandra Desle whose name appeared in

paragraph-9 of the petition, the counsel for the petitioner assures the court that consent affidavit has been filed and for any reason it is not traceable, he will file affidavit of consent of Dr.Mrs.Sudesh Bhalchandra Desle within three weeks from today. The undertaking accepted. It is also stated in the affidavit in support that all office objections have been removed. In view thereof, Petition No.962 of 2010 is restored to file and Notice of Motion is accordingly disposed.

(K.R.SHRIRAM,J)