

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

**NOTICE OF MOTION NO. 2 OF 2017
IN
NOTICE OF MOTION (LODG.) NO. 201 OF 2016
IN
TESTAMENTARY SUIT NO. 68 OF 2005
IN
TESTAMENTARY PETITION NO. 143 OF 2005**

Mrs.Thelca Dantas .. Applicant

In the matter between :

Mrs.Thelca Dantas .. Plaintiff
Vs.
Apollonius Joseph D'souza .. Defendant

Ms.Rohini M. Amin for plaintiff/applicant.

Mr.C.J. Joveson for defendant.

**CORAM : K.R.SHRIRAM, J.
DATE : 12TH APRIL, 2017**

P.C.

1 The notice of motion is taken out for recalling an order dated 5th October 2011 by which the suit came to be dismissed and also for condonation of delay of almost 4 ½ years.

2 In the affidavit in support, the plaintiff-applicant has explained the delay. The plaintiff has also explained as to why the petitioner was not present on 5th October 2011. In paragraph 5 of the affidavit in reply, it is

stated that the defendant has arrived at settlement and the consent terms will be filed. Both the counsels state that the consent terms will be filed within two weeks from today.

3 In the circumstances, the notice of motion is allowed in terms of prayer clause (a) and (b). Testamentary Suit No.68 of 2005 is restored to file.

NOTICE OF MOTION (LODG.) NO. 201 OF 2016

4 By consent, the reliefs sought in notice of motion (lodg.) No.201 of 2016 is also granted and accordingly disposed.

Notwithstanding disposal of the notice of motion, the advocate for the applicant to remove all office objection and get the notice of motion numbered within one week from today.

5 Stand over to 28th April 2017 for filing consent terms.

(K.R. SHRIRAM, J.)