

Sharayu Khot.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

NOTICE OF MOTION NO. 1092 OF 2016

IN

PAUPER PETITION (L) NO. 25 OF 2013

Smt. Babibai Budhya Vaithy

**...Applicant/
Petitioner**

Versus

Smt. Mathura Kashinath Patil & Ors.

...Respondents

Mr. H.T. Pawar, i/by Yadnesh R. Aher, for the Applicant/Petitioner.

Mr. Shishir Joshi, i/by Mrs. Priti Joshi, for the Respondent No. 3.

Mr. Advait Raorane, i/by Jhangiani Narula and Associates, for the Respondent No. 12.

CORAM : R.I. CHAGLA J.

DATE : 26 August 2019

ORDER :

1. By an order dated 9th August 2019, this Court had observed that the Pauper Petition had come up before this Court previously on 2nd May 2018, when the learned Counsel for the Petitioner had stated that the office objections were removed. It was observed that the Pauper Petition was dismissed for not only one, but

for three times. It was further observed that the Petition is still on lodging number. By the order dated 9th August 2019, the office was directed to verify as to whether the office objections had in fact, been removed. It was noted in the said order that the learned Advocate appearing for the Petitioner has recently come on record and that the matter was handled earlier by the previous advocate, when the matter was dismissed for non removal of office objection. This Application has accordingly been taken out for restoration of the Pauper Petition and necessary orders and directions to register the Petition.

2. It is observed from the report filed by the office pursuant to the order dated 9th August 2019 that the Pauper Petition had been rejected on 25th September 2015 as per self operative order of the Prothonotary dated 9th September 2015 for non-removal of office objections. The office has further reported that through oversight, the concerned officer had given filing order dated 15th October 2015 after making endorsement on 14th October 2015 that all office objections had been complied with. This is stated to be an error on the part of the office, since the Pauper Petition had already been rejected and the filing order could not have been given. The

explanation is accepted.

3. Accordingly, it would be necessary in the circumstances of the case, to restore the Pauper Petition by granting prayer clause (a) of the Notice of Motion and since the Pauper Petition is still shown on lodging number to direct the office to register the Pauper Petition.

4. The Notice of Motion is made absolute in terms of prayer clause (a) and accordingly, disposed of.

[R.I. CHAGLA J.]