

Sharayu Khot.

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

INTERIM APPLICATION NO. 1847 OF 2021
IN
TESTAMENTARY PETITION NO. 3191 OF 2019

Manoj Hanskumar Shroff ...Applicant

In the matter between

Mala Purshotam Shroff ...Original Petitioner

And

Manoj Hanskumar Shroff ...Applicant/
Proposed Petitioner

Mr. Sameer R. Logade for the Applicant.

CORAM : R.I. CHAGLA J

DATE : 21 October 2021

ORDER :

1. Heard learned Counsel for the Applicant.

2. By this Interim Application, the Applicant is seeking condonation of delay of 282 days in taking out the present Interim Application.

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3. The Applicant further seeks substitution of the name of the Applicant as Petitioner in place and stead of the original Petitioner by carrying out amendment as well as consequential amendments to the Petition as per Schedule at Exh.G to the Interim Application.

4. The original Petitioner who was the daughter of the deceased Asha Purshotam Shroff and Purshotam Udham Shroff expired on 6th October 2020 as spinster.

5. The Applicant is the nephew of the said deceased. The said deceased Asha Purshotam Shroff expired on 2nd October 2014 and the other deceased Purshotam Udham Shroff died on 23rd June 2008 at Mumbai intestate. The said deceased were husband and wife. Accordingly, the Applicant has sought substitution of the original Petitioner, in view of the demise of the original Petitioner. The demise of the original Petitioner came to the knowledge of the Applicant only recently and there is a delay in taking out the Interim Application.

6. It is stated by the Applicant that he had no

knowledge about the relevant documents and/or properties and/or steps taken by the deceased original Petitioner Mala Purshotam Shroff for obtaining the succession certificate despite of diligent efforts and search. The Applicant could not get knowledge of the exact situation of the properties of the said deceased persons. Therefore, the Applicant did not take any steps in the matter after the demise of the original Petitioner Mala Purshotam Shroff.

7. Learned Counsel for the Applicant has stated that the delay in taking out the Interim Application is explained by the Applicant by stating that due to the Covid-19 lockdown, the Applicant could not visit the Advocate's office. Therefore, there is delay of 282 days in filing the Interim Application.

8. The original Petitioner had expired as spinster and the said deceased persons Asha Purshotam Shroff and Purshotam Udharam Shroff have no other son or daughter other than the original Petitioner. The Applicant being the nephew of the said Asha Purshotam Shroff and Purshotam Udharam Shroff, has therefore, sought for substitution of the original Petitioner with the Applicant.

9. In view of the averments in the Interim Application, I am satisfied that the sufficient reason has been given in the Interim Application and accordingly, the relief sought for in the Interim Application is required to be granted as under:-

- (i) Delay of 282 days in taking out the present Interim Application is condoned.
- (ii) The Applicant is permitted to carry out the amendment to the Petition and further consequential amendments as per Schedule annexed at Exh.G to the Interim Application.
- (iii) Amendment shall be carried out within a period of four weeks from the date of this order.
- (iv) The Applicant upon so amending the Petition shall stand substituted as Petitioner in place and stead of the original Petitioner to proceed with the present Petition.

(v) Interim Application is accordingly, disposed of in the above terms.

[R.I. CHAGLA J.]