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

NOTICE OF MOTION NO.212 OF 2019

IN

TESTAMENTARY PETITION NO.1989 OF 2016

Sobhadevi Bakelal Gupta

...Applicant

Pramila Rajesh Gupta

...Deceased

WITH

NOTICE OF MOTION NO.213 OF 2019

IN

TESTAMENTARY PETITION NO.1879 OF 2016

Sobhadevi Bakelal Gupta

...Applicant

Rajesh Gupta

...Deceased

Mr. Waquar Ahmed for the Applicant.

CORAM : R.I. CHAGLA J.
DATE : 20 October 2021

ORDER :

1. Heard learned Advocate for the Applicant.
2. By these Notices of Motion the Applicant is seeking condonation of delay of 419 days for filing present Notices of Motion. The Notices of Motion seek restoration of the Testamentary Petition which was dismissed by conditional

order dated 2nd May, 2016.

3. The Applicant in the Affidavit in Support of the Notices of Motion had not given reasons as to the delay of almost 419 days to file these Notices of Motion. Accordingly, this Court by an order dated 12th October, 2021 directed the Advocate for the Applicant to file a further Affidavit in Support to the Notices of Motion explaining the delay of 419 days to file Notices of Motion for restoration of the Testamentary Petition.

4. The Applicant has filed similar further Affidavits in Support dated 13th and 14th October, 2021 in the Notices of Motion stating that the delay of 419 days in filing Notices of Motion was due to the Applicant not being in stable financial condition and thereby was unable to appoint the Advocate. It is stated that the Applicant is a senior citizen and a lay man. The delay was unintentional.

5. Having considered the submissions of the learned Advocate for the Applicant and the averments made in the Affidavits in Support of the Notices of Motion as well as further

Affidavits of Support filed on 13th and 14th October, 2021, I am satisfied that the delay in filing the Notices of Motion has been explained by the Applicant and the Testamentary Petition is required to be restored which had been dismissed by the self operative common order dated 2nd May, 2018 for non-removal of office objections. Hence the following order:-

(i) The delay of 419 days in filing Notices of Motion is condoned.

(ii) The Testamentary Petitions are restored to file.

(iii) The Petitioner / Applicant shall remove the office objections within a period of four weeks from the date of this order.

(iv) Both the Notices of Motion are disposed of in the above terms.

[R.I. CHAGLA J.]