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

INTERIM APPLICATION NO.1853 OF 2022
IN
TESTAMENTARY PETITION (L) NO.5603 OF 2021

Parag Jayesh Shah & Anr.

...Applicants /
Petitioners

Versus

Jayesh Jayantilal Shah

...Deceased

Mr. Prabhu Velar for the Applicants / Petitioners.

CORAM : R.I. CHAGLA J.

DATE : 18TH NOVEMBER, 2022

ORDER :

1. Heard learned Counsel appearing for the Applicants /
Petitioners.

2. By this Interim Application, the Applicant is seeking
condonation of delay of 178 days in filing the present Interim
Application. Further, relief is sought for setting aside the order passed
by Additional Prothonotary and Senior Master dated 13th September,

2021 in so far as it relates to present Testamentary Petition and for the Testamentary Petition to be restored on payment of Court Fees.

3. There were objections raised in the Testamentary Petition to pay the Court Fees so that the matter could be proceeded with. The Testamentary Petition came to be rejected by conditional order dated 13th September, 2021 passed under Rule 986 of Bombay High Court (Original Side) Rules for non payment of Court Fees. The Applicant has stated that due to Covid 19 pandemic situation the Applicants financial condition was not good and hence they could not arrange for the Court Fees. However, now the Applicants are in a position to pay Court Fees and have arranged for the same. Accordingly, the present Interim Application has been filed.

4. Having considered the averments in the Application as well as noting that the only objection was with regard to payment of Court Fees which could not be paid by the Applicants due to their financial condition during the Covid 19 pandemic situation, and the fact that now the Applicants are in position to pay Court Fees, the relief sought for in the Interim Application is being granted. Hence the following order:-

(i) The delay of 178 days in taking out the present Interim Application is condoned.

(ii) The conditional order dated 13th September, 2021 passed by the Additional Prothonotary and Senior Master of this Court in so far as it relates to Testamentary Petition (L) No.5603 of 2021 is concerned, is set aside and the Testamentary Petition (L) No.5603 of 2021 is restored to file.

(iii) The office objections raised in the Testamentary Petition which includes payment of Court Fees shall be complied with within a period of three weeks from the date of this Order.

(iv) The Interim Application is accordingly disposed of.

[R.I. CHAGLA J.]