

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

**INTERIM APPLICATION NO. 2755 OF 2022
IN
TESTAMENTARY PETITION (L) NO. 5974 OF 2021**

Ajay Vishnu Gadre ... Applicant/Orig. Petitioner

And

Dr. Saral Shrikant Gokhale ... Deceased

Mr. Harsh S. Moorjani i/b Neel R. Kothari for the Applicant/Orig.
Petitioner.

CORAM : R.I. CHAGLA, J.

DATED : 21st JULY, 2022.

ORDER :

1 Heard the learned Advocate appearing for the Applicant/Original Petitioner. By this Interim Application the Applicant is seeking condonation of delay of 145 days in filing the present Interim Application. Further relief is sought for restoration of captioned Testamentary Petition to the file of the Registry.

2 The Applicant has stated that due to Covid-19 pandemic restrictions the Applicant was unable to remove office objections and

deposit the Court fees within the time prescribed by the Additional Prothonotary and Senior Master of this Court. The learned Advocate for the Applicant/Original Petitioner was travelling in the month of November, 2021 and on such account as well, the Applicant was unable to remove office objections and deposit the Court fees within the prescribed period.

3 The Applicant has stated that by the common order dated 13.09.2021 which was uploaded on 12.11.2021 passed in the batch of Testamentary Petitions including captioned Testamentary Petition, the office objections were to be removed within a period of three weeks from the date of uploading of the order. Considering that the objections were not removed within the stipulated period of time, the captioned Testamentary Petition was placed for rejection under the Bombay High Court (Original Side) Rules, 1980, Rule No.986. The learned Advocate for the Applicant has stated that consent affidavits have already been filed in the Petition for probate of last Will and Testament dated 19.11.2019 of the deceased Dr. Saral Shirkant Gokhale. He has submitted that grave prejudice will be caused if the Testamentary Petition is not restored.

4 Having considered the submission of the learned Advocate for the Applicant as well as the averments in the Interim Application, a

case has been made out for grant of relief sought for in the Interim Application. Considering the current covid-19 pandemic as well as inability of the Advocates to remove office objections in time, the Applicant cannot be made to suffer in the hands of the Advocates. Further, the Testamentary Petition is for probate of last Will and Testament of the deceased and consent affidavit has already been filed as stated. Hence, the following order is passed :

- i) The delay of 145 days in filing the Interim Application, is condoned.
- ii) The Testamentary Petition is restored to the file.
- iii) Further period of two weeks from today is granted for removal of office objections, failing which the Testamentary Petition shall stand rejected without further reference to the Court.
- iv) Interim Application is disposed of in the above terms.

(R.I. CHAGLA, J.)

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