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

INTERIM APPLICATION NO.892 OF 2022
IN
TESTAMENTARY PETITION NO.703 OF 2016

Shekhar Vasant Bagwe

...Applicant /
Petitioner

Versus

Manisha Manohar Sawant

...Deceased

Amit Potnis with Mamta Magre i/b. Bagkar & Co. for the Applicant /
Petitioner.

CORAM : R.I. CHAGLA J.

DATE : 13TH JULY, 2022

ORDER :

1. Heard learned Counsel for the Applicant / Original
Petitioner.

2. By this Interim Application, the Applicant is seeking
recall of the order dated 2nd May, 2018 which had granted a final
opportunity for removal of office objections and if not the Petition
shall stand dismissed and will not be restored thereafter. The

condonation of delay of 632 days is also sought.

3. The Applicant has stated that his Advocate permanently shifted to Dubai and the Applicant being a layman was unaware of the further procedure to be followed. The Applicant could only obtain information of dismissal of the Petition in or about March, 2019. Covid 19 pandemic situation has been relied upon to state that the Applicant could not follow up or pursue or make any application for restoration of Petition. The Applicant made attempts to approach an Advocate, but the Advocate could not be appointed and further steps could not be taken.

4. Having considered the averments in Interim Application and particularly noting that restoration of a Testamentary Petition for Probate of last Will and Testament of the deceased is sought and the fact that the Applicant is a layman, a liberal view is taken in the matter. Further, considering the ensuing Covid 19 pandemic and the negligence on the part of the Advocate who had not informed the Applicant of the dismissal of the Petition, the relief sought for is required to be granted. Hence the following order is passed:-

(i) The order dated 2nd May, 2018 passed by this Court is recalled.

(ii) The delay of 632 in filing Interim Application is condoned.

(iii) The Testamentary Petition is restored to file of this Court.

(iv) The Petitioner shall comply with any remaining objections raised within a period of two weeks from the date of this Order.

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

[R.I. CHAGLA J.]