

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.21 OF 2019
IN
TESTAMENTARY PETITION NO.504 OF 2014**

Dakshesh Jayant Vyas ... Applicant

In the matter between

Jayant Laxmishankar Vyas ... Deceased

Dakshesh Jayant Vyas ... Petitioner

Mr. V. K. Rajbhar for the Applicant/Petitioner.

CORAM : ARIF S. DOCTOR, J.

DATE : 25TH APRIL 2023

P.C. :

1. By the present Notice of Motion, the Applicant seeks restoration of Testamentary Petition No.504 of 2014, which came to be dismissed by the order dated 02/05/2016 (G. S. Patel, J.).

2. On perusal of the Affidavit in support of the Notice of Motion, it shows that the erstwhile Advocate and the Applicant was under the belief that the order dated 02/05/2016 would not be applicable to the Applicant, since according to the Applicant, the office objections had been removed and that the

Applicant was only required to file the consent affidavit of the legal heir and the affidavit of the attesting witness.

3. In my view, such an explanation is wholly lacking of merit. The order of dismissal is dated 02/05/2016 and the present Notice of Motion for restoration is came to be filed after almost two years, i.e., on 03/03/2018. There is no explanation as to what steps were taken in the interregnum. However, since this is a Testamentary Petition for Letters of Administration, the interest of justice would be served if the same is restored, subject to payment of costs of Rs.10,000/- (Rupees Ten Thousand Only), which is to be paid to Poona District Law Library as a condition precedent to the restoration. The accounts details are as under :-

Bank Name	:	Bank of Maharashtra
Branch	:	Shivaji Nagar, Pune
MICR Code	:	411014009
IFSC Code	:	MAHB0000043
Account Number	:	20076322964

4. Hence, the present Notice of Motion is allowed in terms of prayer clauses (a) and (b), which read as under :-

“(a) that the delay of 21 months i.e. 670 days for filing present Notice of Motion to be condoned in the interest of justice to be condon in the interest of justice

(b) The Petition dismiss by condition by order dated 2nd May, 2016 be restored and Petitioners be allowed to proceed with the matter and comply with the objections, if any"

5. The office objections to be complied with on or before 16/05/2023. In the event of the intervening vacations not permitting the Applicant to remove any office objections, time shall be extended accordingly.

6. The Notice of Motion is thus disposed of in terms of the above order.

(ARIF S. DOCTOR, J.)