

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
INTERIM APPLICATION NO. 4635 OF 2022
IN
TESTAMENTARY PETITION NO. 2890 OF 2021

Dhun Jamshedji Buchia

...Applicant/Orig. Petitioner No.1

In the matter between

Rati Noshir Patel alias Rati Nasserwanji

Patel alias Rati Naushed Patel alias

Rati Naushir Patel

...Deceased

Dhun Jamshedji Buchia & Anr.

...Petitioners

And

Yezdi Jal Gandevia

...Respondent

Mr. Vipul Bilve i/by Mulla and Mulla for the Petitioners.

CORAM : ARIF S. DOCTOR, J.

DATE : 27th March, 2023

P.C. :

1. The present Interim Application seeks to bring on record the legal heir of Petitioner No. 2. Petitioner No.2 has passed away on 7th December, 2019. The Respondent is the sole legal heir of the deceased Petitioner No.2. It is thus that the present Interim Application has been filed.

2. I have heard learned counsel and perused a copy of the Interim

Application and find that there is no impediment in granting the same. There is a delay of 853 days in filing of the present Interim Application. The said delay has been explained in paragraph No.7. The reason for the delay is that the Applicant is not keeping good health and is of advanced age and was therefore unable to file the present Application in time and thus prays that the delay be condoned.

3. I have heard learned counsel and perused a copy given the totality of facts. I find that this, the present Interim Application deserves to be allowed in terms of prayer clause (a), (b) & (c) which read as under:-

“(a) delay of 853 days in taking out the present Application be condoned;

(b) the Applicant be permitted to amend the Petition and proceedings as per Schedule annexed hereto as Exhibit “D”;

(c) that’s this Hon’ble Court be pleased to allow the Respondent to re-declare the Petition;”

4. The Interim Application is therefore disposed of.

5. The Amendments to be carried out within a period of three weeks from today.

(ARIF S. DOCTOR, J.)