

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
INTERIM APPLICATION NO.277 OF 2023
IN
PETITION NO.1078 OF 2017**

Champa Shyam Bhambhani

... Deceased

Anil Shyam Bhambhani

... Applicant (Original Petitioner)

In the matter between :-

Anil Shyam Bhambhani

... Petitioner

Ms. Snehal Gambhir i/by Ms. Veena Thadhani for the Applicant/Petitioner.

CORAM : ARIF S. DOCTOR, J.

DATE , 27TH FEBRUARY 2023

P.C. :

1. The present Interim Application has been filed seeking to restore Testamentary Petition No.1078 of 2017.

2. The Interim Application sets out that the Testamentary Petition came to be dismissed pursuant to the notice dated 25/04/2022, by which the office objections were not removed within the requisite time. The reason stated in the Interim Application is one which I am unable to accept and which I find that the same is repeatedly taken in several matters which lays the blame at the

feet of the advocate. There are absolutely no details given in respect of the shortcoming on the part of the advocate. It is simply stated in Paragraph 3 as follows :-

“3. I say that unfortunately the Advocate Assistant at the relevant time was unable to remove Office objections on time on account of which the Petition has been rejected as per the self-operative common Order dated 25/4/2022.”

3. As I have said earlier, this is the repeated practice, which needs to be deprecated. If any shortcoming or negligence on the part of the advocate is caused, the details of the same must be given. Here, in this case, there is nothing on record to show the same. When this was pointed out to the learned Counsel appearing on behalf of the Applicant, she fairly conceded that the same may be struck off from the record. Therefore, Paragraph 3 of the Interim Application is accordingly expunged from the record.

4. Be that as it may, since the Interim Application has been taken out soon thereafter, I find that the interest of justice will be met if the delay is condoned and Testamentary Petition No.1078 of 2017 is restored to its file.

5. Learned Counsel appearing on behalf of the Applicant submits that the office objections/requisitions have already been complied with. In view

thereof, the Interim Application is allowed in terms of prayer clauses (a) and (b), which read as follows :-

“(a) that the delay of 19 days in filing this Interim Application may please be condoned;

(b) that the aforesaid Petition No.1078 of 2017 be restored to file by this Hon’ble Court and the time for removing Office objections be extended by four weeks by setting aside notice dated 25th April, 2022 in respect of this Testamentary Petition;”

6. The Interim Application is therefore disposed of in terms of the above order.

(ARIF S. DOCTOR, J.)