

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

**NOTICE OF MOTION NO.190 OF 2018  
IN  
TESTAMENTARY PETITION NO.1811 OF 2016**

**Gangaram Lodindamal Vijan alias**

**Gangavishen Lodindamal Vijan**

**: Deceased**

**Sureshkumar (Suresh) Gangaram Vijan and ors.**

**: Petitioners.**

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Ms. Vinita N Bhende for the Applicants/Petitioners.

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**CORAM : ARIF S. DOCTOR, J.**

**DATE : 10<sup>th</sup> APRIL 2023**

**P.C. :**

1           The present Notice of Motion seeks restoration of Testamentary  
Petition no.1811 of 2016.

2           The said Testamentary Petition came to be dismissed pursuant to  
the common order dated 2<sup>nd</sup> May 2018 (G. S. Patel, J). On a perusal of the  
Affidavit in support of the Notice of Motion, I find that all that is stated in the  
said Affidavit is that when the Advocate was removing office objections, codicil  
of the deceased was found which necessitated an amendment to the  
Testamentary Petition. When making inquiry with the office, Learned Advocate

found out that the Testamentary Petition was rejected.

3           This in my view neither constitutes a reasonable cause nor does explain the reason why the common order could not be complied with. However, the Affidavit in support gives an undertaking that office objections shall now be complied with at the earliest.

4           In view thereof and as also in the interest of justice I am inclined to grant one last chance to the Applicants/Petitioners to comply with the common order and to remove office objections, however, the same shall be subject to payment of costs of Rs.10,000/- (Rupees Ten Thousand only) to the Bombay High Court Law Library. Payment of costs is a condition precedent.

5           Notice of Motion is therefore allowed in terms of prayer clauses (1) and (2) which read as under :-

(1) *That the order of rejection for non-removal of office objections under Rule 435, passed by the HHJ SHRI G.S.PATEL dated 02/5/18 be set aside;*

(2) *That the Hon'ble Court be pleased to restore the Petition and extend the period of removal of objections.*

6           Objections to be removed within a period of six weeks from today.  
Costs to be paid within a period of three weeks from date of this order being  
uploaded.

7           Notice of Motion is accordingly disposed of.

**(ARIF S. DOCTOR, J.)**