

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
INTERIM APPLICATION NO.1683 OF 2023
IN
PETITION NO.2155 OF 2018

Sheran Rustomji Mistry

... Deceased

Bapsy Rohintan Daviervalva & Anr.

... Applicants/Ori. Petitioners

In the matter of

Bapsy Rohintan Daviervalva & Anr.

... Petitioners

Ms. I. M. Koparkar with Ms. Ankita Naik for the Applicants.

CORAM : ARIF S. DOCTOR, J.

DATE , 24TH APRIL 2023

P.C. :

1. By the present Interim Application, the Applicants seek restoration of Testamentary Petition No.2155 of 2018, which is filed for issuance of Probate of the last Will and Testament of one Sheran Rustomji Mistry.

2. Learned Counsel for the Applicants points out that by the order/notice dated 05/04/2022, the Testamentary Petition came to be dismissed under Rule 435 of the Bombay High Court (Original Side) Rules, 1980 for non compliance. She further points out that all office objections were complied with. However, issuance of citation, which in fact had been issued, is pending

for affixing the stamp of the Prothonotary and Senior Master. But in view of the lapse of eight weeks period and since the Testamentary Petition was dismissed, the order could not be complied with.

3. I have heard learned Counsel for the Applicants and perused the Interim Application. I find that the same is in order and deserves to be allowed in the interest of justice. Therefore, the Interim Application is allowed in terms of prayer clauses (a) and (b), which read as under :-

“a) That this Hon’ble Court may condone the delay of 12 days in filing the above said Interim Application.

b) That this Hon’ble Court may restore the Testamentary Petition No.2155/2018 to the file by setting aside the conditional order as per notice dated 25/04/2022 issued by the Prothonotary and Senior Master.”

4. The Interim Application is thus disposed of in terms of the above order.

(ARIF S. DOCTOR, J.)