

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

**INTERIM APPLICATION NO.3745 OF 2024
IN
TESTAMENTARY PETITION NO.1088 OF 2018**

Neville Jehanbux Marfatia ... Applicant/Petitioner

In the matter between

Perviz Jehanbux Marfatia ... Deceased

Neville Jehanbux Marfatia ... Petitioner

Mr. Chaitanya B. for the Applicant/Petitioner.

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CORAM : ARIF S. DOCTOR, J.

DATE : 20TH FEBRUARY 2025

P.C. :

1. By way of the present Interim Application, the Applicant seeks restoration of the captioned Testamentary Petition, which came to be dismissed vide an order dated 25th April 2022.

2. Learned Counsel appearing on behalf of the Applicant submits that Applicant was unaware of the aforesaid order and was not informed of the same by the then Advocate concerned. He points out that it is only in August,

2024 that the Applicant became aware of the dismissal of the Testamentary Petition and it is thus that the restoration of the same has been sought for.

3. Having due regard to the submissions made, I find that it would be in the interest of justice to restore the Testamentary Petition and grant the Applicant an opportunity to obtain Probate in respect of the said Will. Furthermore, this is being non-contentious proceedings, no prejudice would be caused to any third party. Hence, the Interim Application is allowed in terms of prayer clauses (a) & (b), which read thus:

- "a) That this Hon'ble Court be pleased to recall the Order dated 22nd April 2022 and/or the order dated 25th April 2022 by which Testamentary Petition No.1088 of 2018 has been disposed of as rejected;*
- b) That this Hon'ble Court be pleased to Restore Testamentary Petition No.1088 of 2018 to file"*

4. Interim Application is accordingly disposed of.

(ARIF S. DOCTOR, J.)