SHEPHALI

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO. 1823 OF 2014
ALONG WITH
NOTICE OF MOTION (L) NO. 305 OF 2016
IN
TESTAMENTARY PETITION NO. 1823 OF 2014

Arti Ashok Nalawade …Petitioner

And

Dinanath Vithal Jadhav …Deceased

Mr. Sanjay C. Prabhu, *for the Petitioner.*

CORAM: G.S. PATEL, J

DATED: 15th November 2016

PC:-

1. The Petition stood dismissed by an order dated 2nd May 2016 because an amendment previously allowed was not carried out within the time granted by the office. The Petitioner says that the Advocate was unaware of the order and could not comply with the requisitions.

2. Given that the full Court fees have been paid and that what remains to be done seems to be minor, I will allow the Notice of Motion in part by restoring the Petition but I will do it for a limited reason. The Petition itself is misconceived and not maintainable. It is filed "for a certificate of the estate of" the deceased and the claim is made under the Hindu Succession Act, 1956. There can be no such certificate and no such Petition. This is neither a Petition for a Succession Certificate nor one for a Legal Heirship Certificate under Section 2 of Bombay Regulation VIII of 1827.

3. Prayer clause (b) seeks leave to convert the Petition into one for Letters of Administration. That cannot be done. A fresh Petition will have to be filed.

4. The learned Advocate for the Petitioner points out that the Petitioner cannot possibly afford to pay the full Court fees a second time over. That is a problem that can be quickly addressed.

5. Leave to the Petitioner to withdraw the present Petition and to file a fresh Petition for Letters of Administration to the estate and credits of late Dinananth V. Jadhav. The Court fees paid on the present Petition No. 1823 of 2014, being the full amount of Rs. 75,000/-, will be allowed to be adjusted in full against the fresh Petition for Letters of Administration.

6. The Testamentary Petition and the Notice of Motion both are disposed of in these terms. There will be no order as to costs.

(G. S. PATEL, J.)