

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

TESTAMENTARY PETITION NO.1734 OF 2015

Abhishek Vikram Vaid	..	Petitioner
Vs.		
Meenakshi Vikarm Vaid (deceased)	..	Respondent

Mr.Manish Shroff i/by Mr.Tejas Dande for the petitioner.
Mr.Omprakash Parihar for the respondent.

CORAM : R.D. DHANUKA, J.
DATE : 12th June 2017

P.C. :

. By this petition, the petitioner who is admittedly one of the heirs of deceased Meenakshi Vir Vikram Vaid who died on 27th September 2013 intestate has applied for succession certificate in respect of certain debts and securities mentioned in Schedule-I with power to collect the said debts and to receive interest on the said debts.

2. In paragraph 4 of the petition, the names of other three legal heirs are mentioned including the petitioner. It is stated that the said deceased left no other heirs save and except those four heirs mentioned in paragraph 4 of the petition. Along with the petition, the petitioner has filed consent affidavits of Ms.Carishma Vir Vikram Vaid, daughter of the deceased and Mr.Vir Vikram Vaid, husband of the deceased both dated 5th September 2015.

3. It is submitted by the learned counsel for the petitioner that out of the four legal heirs including the petitioner, two legal heirs have already filed consent affidavit in favour of the petitioner for grant of

succession certificate in respect of the certain debts and securities. He submits that in so far as one of the legal heirs Shaleen Vir Vikram Vaid is concerned, he has filed objections to grant of succession certificate on some frivolous grounds. He submits that objections filed by Shaleen Vir Vikram Vaid thus shall be rejected by this Court and succession certificate be granted to the petitioner.

4. Learned counsel appearing for the objector Shaleen Vir Vikram Vaid invited my attention to the affidavit dated 22nd June 2016 and also to the order dated 11th January 2016 passed by Shri Justice A.K. Menon in Miscellaneous Petition No.73 of 2015 filed by Abhishek Vir Vikram Vaid for seeking succession certificate in respect of Meenakshi Vir Vikram Vaid. He submits that in the said petition also, the father of the petitioner had alleged to have filed joint affidavit of consent and was present in Court on 11th January 2016. He was wheelchair bound. This Court noticed that the father of the petitioner appeared to be severely challenged in speech as well although he identified his signature on his affidavit of consent shown to him when this Court asked him if he understood the contents, he was incoherent.

5. It is submitted by the learned counsel for the objector that in view of these observations made by this Court as far back as on 11th January 2016, in so far as the share of the father of the petitioner is concerned, the same cannot be granted by this Court at this stage and he should be examined by Doctor before passing any order.

6. Learned counsel for the petitioner is not agreeable to this suggestion of the learned counsel for the objector for appointment of

Doctor examining the father to find out correct state of health of the father of the petitioner. Learned counsel for the objector has no other objection except this objection.

7. After perusing the order dated 11th January 2016 passed by Shri Justice A.K. Menon, in my view, the objection of the learned counsel for the objector, in so far as the share of the father is concerned, has some merit.

8. At this stage, learned counsel for the petitioner clarifies that the debts mentioned in Schedule-I in the name of Punjab National Bank, Chembur Main Branch is inadvertently mentioned as debts. He submits that the deceased mother was entitled to the said amount lying in the said Punjab National Bank. Statement is accepted.

9. I therefore pass the following order : -

- i) Consent affidavit of Ms.Carishma Vir Vikram Vaid is accepted and taken on record;
- ii) Petition is made absolute in terms of prayer clause (a). It is however made clear that in so as 1/4th share of the father Mr.Vir Vikram Vaid who has alleged to have filed affidavit of consent is concerned, the same shall be deposited by the petitioner in this Court;
- iii) The parties including Mr.Vir Vikram Vaid are at liberty to file appropriate proceedings for withdrawal of the said amount which would be deposited as directed aforesaid;
- iv) It is declared that all the legal heirs mentioned in paragraph 4 of the petition are the legal heirs of the deceased Meenakshi Vir Vikram Vaid;

- v) It is made clear that the petitioner would be entitled to deduct the Court fees and advocate fees incurred by him from the estate of the deceased before distributing the amount among the legal heirs;
- vi) The petition is disposed of in the aforesaid terms. No order as to costs.

R.D. DHANUKA, J.