

a Shia Mohamedan and that no probate is necessary for claiming representation to the estate of the deceased. Learned Counsel also submits that the estate of the deceased has been almost fully administered, save and except a deposit of Rs.30,00,000/- with a bank. Whether or not there is a legal obligation to obtain a probate for claiming representation to the estate of the deceased, as and when an application is made for grant of probate, citations have to be issued to all legal heirs and next of kin of the deceased, including those who would be entitled to any share in the property of the deceased upon intestacy. As far as the estate of the deceased already administered under the will is concerned, that would be a matter which would not directly fall for consideration in a miscellaneous petition such as this, though the Respondents' statement is that behalf is noted.

3 The misc. petition is, accordingly, allowed. The grant of probate in favour of the Respondents is revoked.

4 The Petitioner herein waives service of citation under the probate petition. The Petitioner shall be entitled to file his caveat and affidavit in support of the caveat in the original probate petition. Such caveat and affidavit-in-support to be filed within three weeks from today. In the event such caveat and affidavit-in-support are filed within three weeks, the petition shall be converted into a testamentary suit and will be heard accordingly.

5 The Miscellaneous Petition is disposed of in above terms.

(S.C. GUPTE, J.)