

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 34 OF 2018

Abdul Mujeeb Mohamed Ibrahim Gazdhar Deceased

Abdul Mueed Mujeeb Gazdhar Petitioner

Mr.A.J.Uniyal for the Petitioner.

CORAM : R.D. DHANUKA, J.

DATE : 22nd DECEMBER, 2018

P.C.

Learned counsel appearing for the petitioner states that pursuant to the order passed by this court on 14th September,2018, proclamation is already issued. No objection has been raised by any of the legal heir. Statement is accepted. Affidavit of service is already filed. Statement is accepted.

2. By this Miscellaneous Petition, the petitioner who is one of the son of the deceased prays for grant of heirship certificate under section 2 of the Bombay Regulation Act VIII of 1827. The deceased Mr.Abdul Mujeeb Mohamed Ibrahim Gazdhar expired on 1st July, 2011. A typed copy of the extract of the Disposal Registry Entry is annexed to the petition.

3. In paragraph (4) of the petition it is stated that Mr.Tariq Gazdhar, one of the son of the deceased predeceased the deceased on 24th June, 2004 leaving behind him his widow Smt.Shahida Mohammed Tariq and his two children. It is stated that as per Mohammedan Law, the

legal heirs of the son who died during the lifetime of his father are not entitled to any right in the property of the father. The widow of the said deceased Mrs.Saeeda Mujeeb Gazdhar died intestate on 18th November,2011 survived by the same heirs as that of the said deceased. The said deceased died intestate leaving behind him no testamentary writing or Will. The names of the other legal heirs are disclosed in paragraph (7) of the petition.

4. Out of the three legal heirs, the one legal heir Mr.Mohammed Arif Mujeeb Gazdhar has filed consent affidavit giving his full and free consent for grant of the heirship certificate in favour of the petitioner without serving proclamation/notice upon him and without justifying any surety in respect of his share in the estate of the deceased.

5. Mr.Abdul Munaf Gazdhar, another son of the deceased has not raised any objection though proclamation was issued.

6. Learned counsel submits that except the legal heirs whose names are disclosed in paragraph (7) of the deceased, there are no other legal heirs and next of kin of the said deceased. The statements made in the petition and across the bar are accepted. The statements made in the consent affidavit are accepted. Consent affidavit is taken on record. Proclamation is dispensed with.

7. The petitioner has made out a case for grant of prayer clause (a) of the petition.

8. The Miscellaneous Petition is made absolute in terms of prayer clause (a).

9. The Office is directed to issue heirship certificate expeditiously.
No order as to costs.

[R.D. DHANUKA, J.]