

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 80 OF 2017**

Rajendra Bhikhabai Patel & Anr	...Petitioners
<i>And</i>	
Banoo Rajendra Patel	...Deceased

Mr Abhijeet K Naik, *with Mr Raj Gupta, i/b Rajesh Khobragade, for the Petitioners.*

CORAM: G.S. PATEL, J
DATED: 23rd January 2018

PC:-

1. Accepted. A 'notice' was directed to be issued by an order of 31st August 2017. On 7th November 2017, SC Gupte J extended time and noted that what was ordered was a proclamation. This has now been done.

2. In my view, no proclamation was actually necessary in this case, and ought to have been dispensed. Where the named heirs have consented, kinship is established, or where all the heirs are petitioners, a proclamation may safely be dispensed with. These proclamations are expensive both in terms of money and, perhaps more importantly, time. Legal Heirship certificates have a limited value, as Bombay Regulation VIII of 1827 itself tells us. Many authorities require these for transfer of allotments of government-

provided accommodation or entitlements to accommodation, drawing down post-death financial benefits, seeking employment on compassionate grounds and other matters that are, by their very nature, time-sensitive. These matters are usually not complicated. They are in the nature of routine orders required from a court so that the parties can move on with their lives. They should, for that reason, not only be given listing priority but, in my considered opinion, efforts should be made to minimize to the extent possible the delay in their disposal. Whether or not to issue or dispense with a proclamation is, of course, a matter of judicial discretion; and in dispensing with proclamations, it is a discretion that many courts routinely exercise. For good order, uniformity in institutional approach and conformity, I believe we should now adhere to a common protocol and, in the interest of parties seeking such a certificate, should now dispense with the proclamation where possible, with brief reasons, rather than insist on it in each case. In this case, the only heirs are the husband and daughter of the deceased. There is no one to whom a 'notice' could be given, and none who could conceivably respond to a 'notice' in a newspaper. This was, therefore, a fit case for dispensing with the proclamation. In any case, that requirement has now been met.

3. The Petitioner seeks a Legal Heirship Certificate under Section 2 of Bombay Regulation VIII of 1827 in respect of one Banoo Rajendra Patel in Mumbai on 15th July 2005. It is stated that during her lifetime, she was resident at 33, Teneriff, Little Gibbs road, Malabar Hills, Mumbai 400 006. A copy of her death certificate is annexed.

4. The Petitioner is the husband of the deceased. The only other heir is their daughter. She has consented and her Consent Affidavit is on record. Their names are mentioned in the tabulation below paragraph 2 of the petition.
5. The deceased left property in Tamil Nadu and a Legal Heirship Certificate is required for production before various authorities.
6. No other Petition for a heirship certificate, succession certificate, probate or letters of administration with or without will annexed has been filed. There is no impediment to the grant of relief.
7. The petition is made absolute in terms of prayer clause (a) in favour of the persons mentioned in the table below paragraph 2, namely, Mr Rajendra B Patel and Ms Reena Rajendra Patel.
8. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J)