

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY & INTESTATE JURISDICTION

MISCELLANEOUS PETITION NO.85 OF 2018

Rustamji D. Ghadiali	...Deceased
And	
Pervin S. Modi	...Petitioner

Ms.Tanisha Mehra I/b Vibha Jurisconsult Co. for the Petitioner.

CORAM : R.D. DHANUKA, J.
DATE : 29TH JANUARY, 2019.

P.C. :-

1. By this petition filed under section 2 of the Bombay Regulation VIII of 1827, the petitioner who is the daughter in law of the deceased Rustamji Dinshawji Ghadiali, who died in Mumbai on 5th November, 1984 seeks heirship certificate.

2. It is stated in the petition that the said deceased died intestate. In paragraph 4 of the petition, it is stated that the deceased Rustamji Dinshawji Ghadiali left behind Mr.Soli Rustamji Ghadiali, Mrs.Pervin Soli Modi and Mr.Kushroo Soli Ghadiali as the only surviving heirs and next of kin according to the Indian Succession Act, 1925 applicable to the said deceased. The deceased had only one son viz. Mr.Soli Rustamji Ghadiali and one grand-son viz. Mr.Khushroo Soli Ghadiali. The parents of the deceased pre-

deceased the deceased. The said Mr.Soli Rustamji Ghadiali expired on 17th February, 1987. A copy of the death certificates of the deceased Rustamji Dinshawji Ghadiali and Mr.Soli Rustamji Ghadiali are annexed to the petition.

3. In paragraph 7 of the petition, it is stated that there are no other legal heirs and next of kin left by the said deceased. Learned counsel appearing for the petitioner states that except the persons whose names are mentioned in paragraph 4 of the petition, there are no other legal heirs and next of kin of the said deceased Rustamji Dinshawji Ghadiali.

4. The petitioner has filed a consent affidavit of Mr.Kushroo Soli Ghadiali who is the only grand-son of the said deceased Rustamji Dinshawji Ghadiali affirmed on 4th June, 2018 giving his full and free consent in favour of the petitioner for grant of legal heirship certificate without service of any citation / notice upon him without any surety being justified for his share left by the said deceased. The consent affidavit is taken on record. The statements made by the learned counsel for the petitioner and by the petitioner in the petition are accepted.

5. No objection was received pursuant to the proclamation issued by this Court. The petitioner has made out a case for grant of issuance of heirship certificate as prayed.

6. The Miscellaneous Petition No.85 of 2018 is made absolute in terms of prayer clause (a).

7. The office is directed to issue heirship certificate expeditiously. There shall be no order as to costs.

(R.D. DHANUKA, J.)