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

MISCELLANEOUS PETITION NO.150 OF 2021

Samuel Kalappa Nile

...Deceased

Versus

Shri Raju Samuel Nile

...Petitioner

Mr. Prabhu Velar for the Petitioner.

CORAM : R.I. CHAGLA J

DATE : 12 October 2021

ORDER :

1. Heard learned Advocate for the Petitioner.
2. By this Petition the Petitioner has sought issuance of legal heirship certificate to the Petitioner under the provisions of Bombay Regulation VIII of 1827 certifying that 1) Prema Samule Nile, the wife, 2) Ravi Kumar Samule Nile, the son, 3) Raju Samule Nile, the son and 4) Christina Praveen Paul, the daughter are the only legal heirs and representatives of the deceased.

3. The learned Advocate appearing for the Petitioner has referred to paragraph 4 of the Petition wherein it is stated that the deceased left surviving the above mentioned heirs as the only heirs as per Indian Succession Act, 1956. The names of legal heirs have been given in the said paragraph. He has further referred to paragraph 6 of the Petition, wherein it is stated that the deceased was having a tenement in Room No.28 28, Bori Chawl, Shri Ram Tekdi Road, Sewri, Mumbai 400 015. The said chawl went into redevelopment and the developer M/s. Nehal Developers agreed to give permanent alternate accommodation to the deceased which agreement is dated 14th May, 2013 and has been duly registered with the Joint-Sub-registrar, Mumbai City – V. By the said agreement the deceased was entitled to get one flat in the newly developed building in lieu of his tenancy. The developer has given possession of the one Flat in the new building i.e. Flat No.1002, Shivshakti A-CHS Ltd., Neha Residency, Ram Tekdi Road, Opp. Girnar Tower, Near Lodha Aria, Sewri, Mumbai 400 015. The Petitioner has submitted that after the death of the deceased, the Petitioner and other legal heirs are entitled to the flat and for which purpose the heirship certificate is required to be produced before the concerned Authority viz. Joint Sub Registrar,

Mumbai City, Mumbai 400 001 for getting the said flat transferred in the name of the Petitioner. This has been mentioned in paragraph 6 of the Petition.

4. The learned Advocate appearing for the Petitioner has referred to the consent affidavits filed by the remaining heirs and next-of-kin. The consent Affidavits are dated 24th August, 2021 and which are placed on record. By the consent Affidavits the remaining heirs have given their consent to the Petitioner to be granted heirship certificate for the purpose of producing the same before the concerned authority, viz. Joint Sub-Registrar, Mumbai city for transferring the said flat which was standing in the name of deceased to the name of Petitioner.

5. Having considered the averments in the Petition and in particular paragraph nos.4 and 6 of the Petition as well as the consent Affidavits dated 24th August, 2021 by which the other legal heirs and next-of-kin's have consented to the Petitioner being granted the legal heirship certificate as sought for in the Petition, it would be appropriate to grant the relief sought for in the Petition.

6. Hence the following order:-

(i) The legal heirship certificate shall be issued to the Petitioner Raju Samuel Nile, as per the provisions of the Bombay Regulation VIII of 1827 certifying that 1) Prema Samule Nile, the widow, 2) Ravi Kumar Samule Nile, the son, 3) Raju Samule Nile, the son and 4) Christina Praveen Paul, the daughter are the only legal heirs and representatives of the deceased.

(ii) In view of the consent granted by the other legal heirs of the deceased to the grant of the legal heirship certificate to the Petitioner, the proclamation is dispensed with.

iii) The Petition is accordingly disposed of.

[R.I. CHAGLA J.]