

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

MISCELLANEOUS PETITION NO. 43 OF 2020

Glynis Maryam Murzello & Anr. ... Applicants/Petitioners

And

Joseph Anthony Luke Murzello ... Deceased

Mr. Jash Dalia for the Applicants/Petitioners.

CORAM : R.I. CHAGLA, J.

DATED : 14th OCTOBER, 2021.

P.C. :

1 Heard learned Counsel for the Petitioners. By the present Petition the Petitioners seeks grant of legal heirship certificate under Section 2 of the Bombay Regulation Act VIII of 1827 in respect of the deceased Joseph Anthony Luke Murzello who expired at Mumbai on 08.01.2017. A copy of the death certificate is annexed to the Petition. The deceased had left surviving him as his only heirs and next of kin the Petitioners as well as their mother. The Petitioners' mother expired on 06.07.2019 leaving behind the Petitioners as being the only surviving legal heirs. The particulars have been mentioned in paragraph 7A of the Petition.

2 It is stated that the legal heirship certificate is required as the Petitioners require to settle the loan facility with Axis Bank and had approached Axis Bank for that purpose. However, by e-mail dated 29.08.2019, Axis Bank informed the Petitioner No.1 that the Petitioner No.1 cannot enter into any kind of valid agreement with third party for any transaction of whatever nature in respect of the said property without obtaining legal heirship certificate.

3 The learned Counsel for the Petitioners has also stated that Axis Bank has issued demand notice No.13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 wherein the Petitioners have been described as the non legal heirs of the borrower. This is in respect of the loan facility for which the Petitioners had approached Axis Bank to settle.

4 Considering that the Petitioners are the only surviving legal heirs of the deceased, there is no question of consent of any other heirs being required in the present case.

5 No other Petition for legal heirship certificate, succession certificate, probate or letters of administration with or without will annexed has been filed. Therefore, I do not find any impediment in granting the relief sought for in the present Petition.

6 In these circumstances, the Petition is allowed in terms of
prayer clause (a) which reads thus :

*“(a) this Hon’ble Court may be pleased to grant the legal
heir certificate in the name of the Petitioners Glynis
Maryam Murzello and Glenda Evelyn Murzello, the
married daughters of the deceased as their recognized
legal heir and representatives of the deceased.”*

7 Proclamation is dispensed with.

8 Petition is disposed of. No order as to costs.

Digitally
signed by
WAISHALI
SUSHIL
WAGHMARE
Date:
2021.10.26
05:24:05
+0530

(R.I. CHAGLA, J.)