

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

MISCELLANEOUS PETITION NO.187 OF 2021

Mr. Deepak Vijay Dandekar & Anr. ...Petitioners
V/S

Vijay Shivram Dandekar ...Deceased

Mr. Ashutosh R. Gole for Petitioners.

CORAM : R. I. CHAGLA, J.

DATED : 1st JULY, 2022.

P.C.

1. In view of the emergency, the matter is taken on record at 2.30 p.m.

2. Heard the learned counsel for the Petitioners.

3. By the present Petition, the Petitioners are seeking Legal Heirship Certificate under Section 2 of Bombay Regulation VIII of 1827 in respect of the deceased - Vijay Shivram Dandekar, who expired at Mumbai on 2nd December 2005. A copy of his death certificate is annexed at Exhibit-A to the Petition. The Petitioners are the legal heirs of the deceased being the sons of the deceased.

The other legal heirs of the deceased are the married daughter and wife (widow) of the deceased. The particulars of the legal heirs surviving the deceased is set out in the tabular form at para 5 of the Petition. Save and except the legal heir mentioned therein, there are no other legal heirs surviving of the deceased.

4. It is stated in para 15 of the Petition that the Petitioners had filed Suit No.824 of 2009 in the City Civil Court seeking the share of the deceased in partnership firm 'M/s. National Drugs and Chemical Works' on his demise. The deceased was the partner of the said firm. During the pendency of the said Suit, Mrs. Sulabha Vijay Dandekar and Mrs. Meghana Rajesh Dixit released their respective rights in such share of the deceased in the partnership firm in favour of the Petitioners. Subsequently, a fresh Partnership Deed was executed between the then surviving partners of 'M/s. National Drugs and Chemicals Works' and the Petitioners.

5. It is stated in para 17 of the Petition that, the partnership firm holds land alongwith structure within 'Marol Industrial Area' under 'Maharashtra Industrial Development Corporation (MIDC)' and bearing Final Plot No.A-64, admeasuring 1211 sq. mt., Marole Industrial Area, MIDC, Behind Tunga Hotel,

Cross Road - A, Village Mulgaon, Andheri-East, Mumbai-400096.

6. The Petitioners had filed an Application dated 28th August 2018 for effecting change in details of the partnership firm in records of MIDC regarding the fresh constitution of partners of M/s. National Drugs and Chemical Works. The MIDC asked the Petitioners to obtain the Legal Heirship Certificate of the deceased by letter dated 19th September 2018.

7. Further, the Petitioners as partners of the said firm submitted an Application dated 7th December 2020 for transfer of lease to MIDC alongwith copy of the letters of administration granted to the Petitioner in Testamentary Petition No.1465 of 2019. The MIDC still insisted for 'Heirship Certificate' to be produced by the Petitioners notwithstanding the Letters of Administration granted by this Court and submitted to MIDC. Hence, the present Petition is filed for fulfilling the requirements of MIDC and that the Petitioners have sought for condonation of delay and the same be decided on merits.

8. The other legal heirs have filed their Consent Affidavits dated 15th February 2022 and 18th February 2022 giving their full and free consent for grant of Legal Heirship Certificate in favour of

the Petitioners without justifying, the surety and waiving service of proclamation.

9. 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.

10. The Petition is accepted and made absolute in terms of prayer clause (A) in favour of the Petitioners.

11. Issuance of proclamation is dispensed with.

12. Miscellaneous Petition is disposed of in the above terms.
No order as to costs.

13. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production of a digitally signed copy of this order.

(R. I. CHAGLA, J.)