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

MISCELLANEOUS PETITION NO.36 OF 2020

Allauddin Mahomed Allibhoy Merchant ...Petitioner

Merchant Mahomed Allibhoy ...Deceased

Ms. Aditi Naikare, i/b. P. J. Thorat for the Petitioner.

CORAM : R.I. CHAGLA J

**DATE : 14TH JANUARY, 2022
(THROUGH V.C.)**

ORDER :

1. By the present Petition, the Petitioner seeks a Legal Heirship Certificate under Section 2 of the Bombay Regulation Act VIII of 1827 in respect of the deceased Merchant Mahomed Allibhoy who expired at Mumbai on 22nd February, 1987. A copy of death certificate is also annexed to the Petition. The deceased was survived by the heirs and next of kin as per the Muslim Law mentioned in tabular form at paragraph 4 of the Petition. This included the Petitioner as the son of the deceased and another son of the deceased Amin Allibhoy as well as four

daughters of the deceased mentioned at Sr.No.3 to 6 of the tabular form to the Petition. The deceased left no other heirs save and except those mentioned in the tabular form at paragraph 4.

2. Proclamation has been issued to the other heirs of the deceased on 24th February, 2021. In spite of which there has been no appearance by the other heirs of the deceased.

3. It is stated that the Legal Heirship Certificate is required for the purpose of the transmission of shares. During the lifetime of the deceased, he has executed a Gift Deed dated 16th July, 1982 and gifted shares mentioned in the schedule -I i.e. Exhibit 'B' to the Petition. The Heirship Certificate is required for that purpose.

4. 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 reliefs sought for in the present Petition.

5. In view thereof, the Petition is accepted and allowed in terms of prayer clause (aa), which reads thus:-

(aa) That a legal heirship Certificate may be issued certifying that the Petitioner i.e. Allauddin Mahomed Allibhoy Merchant is the heir and legal representative of the deceased under the provisions of Bombay Regulation Act, VIII of 1827."

6. The Miscellaneous Petition is disposed of accordingly.

[R.I. CHAGLA J.]