

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

MISCELLANEOUS PETITION NO.225 OF 2022

1. Ivy Anwar Tinwalla
2. Vilma Alphonso Misquith .. Petitioners

Alphonso Misquith @ Alphonso Misquith
S/o. Xavier Misquith .. Deceased

Mr. Dattatraya N. Kulkarni for the Petitioners.

CORAM : VALMIKI SA MENEZES, J.

DATE : 17TH NOVEMBER, 2022.

P.C. :

1. By this petition, the petitioners seek issuance of Legal Heirship Certificate, under Section 2 of the Bombay Regulation VIII of 1872, in respect of Late Alphonso Misquith @ Alphonso Misquith S/o. Xavier Misquith, who is said to have died intestate on 20th October 1997. A copy of his Death Certificate is annexed as Exhibit-A (page 15) to the petition. A statement is made in para 2 of the petition that the deceased had a fixed place of abode at Borivali (West), Mumbai.

2. The wife of the deceased, namely, Severina Misquith has expired on 22nd August 2010. Her Death Certificate to that effect is produced on record and annexed as Exhibit-B to the petition. The petitioners, who are the daughters of the deceased, claim to be the only heirs to the estate of the

deceased. They have produced on record copies of their Aadhaar Cards, which are annexed as Exhibits “C” and “D” (pages 17 and 19), respectively, to the petition. They claim that there is no other competing heir to the estate of the deceased. Accordingly, proclamation is dispensed with.

3. The petitioners, in para 3 of the petition, state that the deceased – Alphonso Misquith @ Alphonso Misquith S/o. Xavier Misquith died intestate without leaving any Will. It is further stated in paras 7 to 9 of the petition that the petitioners require Legal Heirship Certificate for producing the same before the office bearers of “The Borivali Vyomesh Co-operative Housing Society Ltd.” and other concerned authorities for transferring the property described in the “Schedule of Property” annexed at Exhibit-E (page 21) to the petition.

4. Considering the statements made in the petition and the documents produced on record, I find no impediment in granting Legal Heirship Certificate to the petitioners. Accordingly, the petition is made absolute in terms of prayer clause (a), which reads thus :-

“(a). That a Legal Heirship Certificate be issued under the provisions of Bombay Regulation Act VIII of 1827, certifying that (1) Ivy Tinwalla W/o. Anwar Tinwalla (Daughter of the deceased and the petitioner no.1 herein) and (2) Vilma Misquith, D/o. Alphonso Misquith (Daughter of the deceased and the petitioner no.2 herein), are the only heirs and legal representatives of the deceased.”

5. Registry to act upon this order and issue Legal Heirship Certificate to the petitioners.
6. Miscellaneous Petition is disposed of in the above terms.

[VALMIKI SA MENEZES, J.]