

K.S. Jadhav

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

MISCELLANEOUS PETITION NO. 241 of 2022

Afzal Yakub Reshamwala

...Petitioner

Versus

**Late Yakub Ahmed Reshamwala alias
Yakub A. Reshamwala Sunni**

...Deceased

Mr. S.U. Lakdawala a/w Mr. Vijay Badgajar, Advocates for the
Petitioner.

CORAM : R.I. CHAGLA, J.

DATE : 10th November, 2022.

ORDER :

1. By the present petition, the Petitioner seeks a Legal Heirship Certificate under Section 2 of the Bombay Regulation VIII of 1827 in respect of the deceased Yakub Ahmed Reshamwala alias Yakub A. Reshamwala Sunni, who expired at Mumbai on 11th October, 2020. The copy of the Death Certificate is annexed at Exhibit-A to the Petition.

2. The deceased was survived by the Petitioner who is the

son of deceased as well as by the widow and one married daughter of the deceased, the particulars of whom are given in the tabular form at paragraph 4 of the Petition. Except these persons who are legal heirs of the deceased mentioned therein, the deceased was survived by no other legal heir.

3. It is stated in Paragraph 5 of the Petition that the deceased had left various properties within Greater Mumbai and in the State of Maharashtra. The properties are comprising of both moveable and immoveable properties. The immoveable properties are both residential and commercial ownership property as well as a tenanted properties. The deceased also owned Agricultural Lands in Taluka Karjat, District Raigad.

4. It is further stated in Paragraph 8 of the Petition that Legal Heirship Certificate is required in respect of the aforementioned properties comprised in the estate of the deceased for mutation and transfer of these properties in the names of the legal heirs in the various property records like Land Revenue, Society Share Certificate, Rent Receipts etc. This

is as per mutual agreement arrived at between the Petitioner and the other legal heirs of the deceased as recorded in the duly notarized Deed of Family Arrangement dated 19.03.2021.

5. The other legal heirs of the deceased have filed their Consent Affidavits dated 27th June, 2022 by which they have their full and free consent to the grant of the Legal Heirship Certificate in favour of the Petitioner without justifying their share in the estate of the deceased and without service of the Proclamation / Citation / Notice upon them.

6. 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 to grant the relief sought for in the present Petition.

- i) The Petition is accordingly accepted and made absolute in terms of prayer clause (a), which reads thus:-

“(a) the Certificate of Heirship thereby certifying the Petitioner i.e. Afzal Yakub Reshamwala, the Petitioner’s mother i.e Mrs. Rabia Yakub Reshamwala

and the Petitioner's sister i.e. Mrs. Seema Firdousi Sayed, as the recognized heirs of the Deceased late Yakub Ahmed Reshamwala, in the form as per Appendix B of the Bombay Regulation VIII of 1827, be granted to and in favour of the Petitioner”

- ii) Proclamation is dispensed with.
- iii) Miscellaneous Petition is accordingly disposed of.
- iv) No order as to costs.

[R.I. CHAGLA J.]