

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 245 OF 2022**

Jagruti Rustom Kothari and Anr. ... Petitioners

Rustom Babular Kothari (deceased) ... Respondent

Ms. Vinali Bhaidkar i/by Mr. Sean Wassoodew for the Petitioners.

CORAM : VALMIKI SA MENEZES, J.

DATED : NOVEMBER 18, 2022.

P.C. :

. The Petitioner seeks a Legal Heirship Certificate under section 2 of Bombay Regulation VIII of 1827 in respect of deceased Rustom Babular Kothari, who is said to have died intestate on 23rd October 2021. A copy of his death certificate is at “Exhibit-A, page-21” of the Petition. Aadhar Card of deceased which is at “Exhibit-A1, page-22” of the petition as a proof of resident at Ground floor, Hari Bhuvan, Mahant Road, Near Ruia Hindi High School, Vileparle (East), Mumbai, Maharashtra- 400 057. The deceased was survived by his widow, one son and daughter.

2. The petition has been filed by the wife of the deceased, Smt. Jagruti Kothari and by son, Sohrab Kothari, petitioner nos. 1 and 2 respectively. They have stated in the petition that apart from the

names recorded in the table at Paragraph-4 below of the petition that the deceased has no other legal heirs except the petitioners i.e. petitioner no. 1-wife and petitioner no. 2-son and daughter-Firoza Kothari, who is not a party to the petition. Petitioner Nos. 1 and 2 have produced their Aadhar Cards are at “Exhibit-B and C” of the petition and their Pan Cards which are respectively at “Exhibit-B1 and C1” of the petition.

3. Daughter, Firoza Kothari has filed her consent affidavit dated 7th September 2022, wherein she records the consent to taking the Legal Heirship Certificate through the petitioners. She further waives service of notice in this proceedings to requests service through proclamation to be dispensed with. Accordingly, proclamation is dispensed with.

4. The reasons for requiring the Legal Heirship Certificate are stated in Paragraph no.9 of the petition, namely, that the same is required for the purpose of production before the concerned Housing Societies, Authorities of Central Depository Services (India) Ltd, DCSL, Government and Semi Government Authorities, Tehsil/Collector office, Village Office-Rajasamad Rajasthan for transferring all the immovable and movable properties of the deceased which are described in Schedule annexed to the petition at Exhibit-D, commencing from Page-27, in which the deceased is interested.

5. Considering the statements made in the petition and the documents produced on record, I find no impediment to the grant of

relief sought by the petitioners to issue the Legal Heirship Certificate in the name of legal heirs as mentioned in the table form below Paragraph No.4 of the petition.

6. The Petition is made absolute in terms of prayer clause (a) in favour of the petitioner, which is reproduced hereunder :

“ That a Legal Heirship Certificate be issued under the provision of the Bombay Regulation Act VIII of 1827 certifying that (1) Smt. Jagruti Rustom Kothari w/o Rustom Babulal Kothari alias Rustom Babubhai Kothari, (the widow and the Petitioner No. 1 herein) (2) Sohrab Rustom Kothari s/o Rustom Babulal Kothari alias Rustom Babubhai Kothari (the Son and the Petitioner No.2 herein) and (3) Firoza Rustom Kothari D/o. Rustom Babulal Kothari alias Rustom Babubhai Kothari (daughter), are the only heirs and Legal representatives of the deceased.”

7. Registry to act upon this order and issue Legal Heirship Certificate.

(VALMIKI SA MENEZES, J)