

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
INTERIM APPLICATION NO.5289 OF 2022
IN
MISCELLANEOUS PETITION NO.34 OF 2022**

Satish Shivaji More

... Deceased

Prathmesh Satish More

... Applicant/(Org. Petitioner)

Prathmesh Satish More

... Petitioner

Mr. Kunal Bhanage i/by Akshay Pawar for the Applicant/Petitioner.

CORAM : ARIF S. DOCTOR, J.

DATE : 23RD DECEMBER 2022

P.C. :

1. The present Interim Application seeks amendment of the prayer clause in Miscellaneous Petition No.34 of 2022 which reads thus :-

"a. That this Hon'ble Court may be pleased to allow the Applicant/Ori. Petitioner to carry out the necessary amendment to prayer clause (a) of Miscellaneous Petition No.34 of 2022 as mentioned in "Schedule-A" annexed herewith and further be pleased to amend the grant of Legal Heirship Certificate dated 9th March 2022 by replacing the name of "Smt. Sharada Shivaji More" with the name of the Applicant/Ori. Petitioner i.e. "Prathmesh Satish More"."

2. The learned Counsel appearing on behalf of the Applicant submits that on account of inadvertence, the Applicant's name was not mentioned in the prayer clause of the Miscellaneous Petition and, therefore, seeks the necessary amendment.

3. However, on a perusal of Miscellaneous Petition No.34 of 2022 in Paragraph 4 thereof, the same lists only the name of Sharada Shivaji More, as being the only heir and next of kin according to Hindu Succession Act, 1956 of deceased Satish Shivaji More ('the deceased'). The name of the Applicant is not mentioned in the table of legal heirs and next of kin of the deceased. Therefore, unless it is explained in the Miscellaneous Petition or by way of a separate application for Legal Heirship Certificate as to how Prathmesh Satish More, i.e., the Applicant herein, is the legal heir of the deceased, the question of granting a Legal Heirship Certificate to said Prathmesh Satish More or allowing the amendment, as presently prayed for, would not arise.

4. Stand over to 10/01/2023 to enable the learned Counsel for the Applicant to take appropriate steps.

5. At this stage, Mr. Bhanage seeks liberty of this Court to withdraw the present Interim Application and filed a fresh Interim Application for the appropriate proceedings. The Interim Application is dismissed as withdrawn with liberty as prayed for.

(ARIF S. DOCTOR, J.)