

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

MISCELLANEOUS PETITION NO.263 OF 2022

Sanjay Eknath Sawant .. Petitioner

Kavita Eknath Sawant @ Kavita Ekanath Sawant .. Deceased

Ms. Shirin Irani, i/by Mr. Sid Desai, for the Petitioner.

CORAM : VALMIKI SA MENEZES, J.

DATE : 17TH NOVEMBER, 2022.

P.C. :

1. By this petition, the petitioner seeks issuance of Legal Heirship Certificate, under Section 2 of the Bombay Regulation VIII of 1872, in respect of Late Kavita Eknath Sawant @ Kavita Ekanath Sawant, who is said to have died intestate on 4th May 1995. A copy of her Death Certificate is annexed as Exhibit-A (page 14) to the petition. The deceased had a permanent place of abode at Kalwa, Dist. Thane.

2. The petitioner, who is the son of the deceased, states that the legal heirs of the deceased are listed in a table at para 4 on page 3 of the petition; they being the petitioner himself, husband of the deceased – Eknath Narayan Sawant, the son of the deceased – Abhay and the married daughter of the deceased – Abhita Nilesh Rane. Along with the petition, the Election Card of the deceased is annexed as Exhibit A-1 and the Aadhaar Card of the petitioner is produced on record as Exhibit-B to the petition.

3. Besides the petitioner, the consent affidavits of the husband of the deceased – Eknath Narayan Sawant, the son of the deceased – Abhay and the married daughter of the deceased – Abhita are produced on record at pages 22, 25 and 28, respectively, to the petition. The affidavit-in-support filed by the son of the deceased, namely, Sanjay, the petitioner herein, dated 19th October 2022 is also placed on record at page 31 of the petition. All these affidavits specifically refer to the statements that have been made by the heirs of the deceased, whose names are listed in para 4 of the petition, recording their consent to the petitioner obtaining Legal Heirship Certificate.

4. The Heirship Certificate is stated to be required for the purpose of carrying out some transfers in the records of the properties listed in the “Schedule of Properties” annexed as Exhibit-D (page 19) to the petition, in which the deceased – Kavita Eknath Sawant @ Kavita Ekanath Sawant had interest.

5. The purpose for which this petition has been filed is stated in paras 7 to 9 thereof, namely, the petitioner and his father, brother and married sister, are entitled to have interest in the immovable properties described in para 9 of the petition and that they require Legal Heirship Certificate for the purpose of carrying out mutations of their names, being heirs of the deceased, in the Revenue Record of the immovable properties as also for transferring the equity shares described at serial no.1 in the “Schedule of

Properties” annexed as Exhibit-D (page 19) to the petition. Considering that the consent affidavits of the remaining heirs of the deceased are on record, proclamation is dispensed with.

6. Considering the statements made in the petition and the documents produced on record, I find no impediment in granting Legal Heirship Certificate to the petitioner. 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) Eknath Narayan Sawant (Husband of the deceased), (2) Abhay Eknath Sawant (Son of the deceased), (3) Abhita Niles Rane (Married Daughter of the deceased) and (4) Sanjay Eknath Sawant (Son of the deceased and the petitioner herein), are the only heirs and legal representatives of the deceased abovenamed.”

7. Registry to act upon this order and issue Legal Heirship Certificate to include all the heirs as detailed in the table at para 4 of the petition.

8. Miscellaneous Petition is disposed of in the above terms.

[VALMIKI SA MENEZES, J.]