

Ajay

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

MISC. PETITION NO. 149 OF 2023

Naresh Khoda Kanparia .. Deceased

Daksha Naresh Kanparia .. Petitioner

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- Mr. V.K. Rajbhor, Advocate for Petitioner.
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CORAM : MILIND N. JADHAV, J.

DATE : JULY 25, 2023.

P.C.:

- 1.** Mentioned taken out of turn.
- 2.** Heard Mr. Rajbhor, learned Advocate for Petitioner.
- 3.** Present Misc. Petition is filed by the Petitioner for issuance of legal heirship certificate under Section 2 of the Bombay Regulation VIII of 1827 in respect of deceased Naresh Khoda Kanparia who expired on 18.02.2022. Copy of his death certificate is annexed to the Petition. Petition is preferred by his wife Mrs. Daksha Naresh Kanparia.
- 4.** It is averred in the Petition that the deceased had married earlier to one Geeta Naresh Kanparia and from their wedlock had one daughter by the name of Ria Naresh Kanparia. It is further averred that the marriage of the deceased with Geeta Naresh Kanparia was declared as dissolved by an order and decree of the Family Court on

19.01.2006, copy of which is appended as Exhibit “B” to the Petition. It is further averred that the deceased got married to the Petitioner on 23.12.2012 and from the said wedlock has one issue i.e. one daughter named Mahek Naresh Kanparia. The daughter of the deceased is 9 years old and hence a minor and her consent has been given through her natural and legal guardian i.e. mother who is the Petitioner before the Court.

5. It is stated by the Petitioner that the whereabouts of Ria i.e. the daughter of the deceased from his first wife are not known to the Petitioner. Infact the age of the said daughter is also not known to the Petitioner.

6. In that view of the matter, when this Petition had come up earlier for hearing on 10.04.2023, directions were given to the Petitioner to issue proclamation in two newspapers in that respect. Accordingly, the Petitioner’s Advocate would submit that proclamation has been issued on 15.06.2023 as required and prescribed by Rules and an Affidavit of service dated 19.06.2023 placing on record the copy of the proclamation dated 05.06.2023 and the date and proof of publication on 15.06.2023 has been filed. I have perused the said Affidavit of service and the proclamation and the same are in order.

7. Petitioner has stated that pursuant to the demise of the deceased, she has applied to the Municipal Corporation of Greater

Mumbai on 16.03.2022 for seeking a job on compassionate grounds and also to collect the retirement / retiral dues of the deceased who was employed with the Municipal Corporation of Greater Mumbai. She would submit that in response to her Application she was directed and asked to produce the legal heirship certificate issued by the Competent Court of law. The letter dated 17.06.2022 issued by the Municipal Corporation of Greater Mumbai is appended as Exhibit "F" to the Petition and I have perused the same.

8. It calls upon to the Petitioner to furnish the appropriate legal heirship certificate and / or succession certificate in order to claim the entitlement.

9. Considering the purpose for which the Petition has been filed and the details of the legal heirs stated in paragraph No.4 of the Petition and more specifically in view of the fact that the proclamation has been issued and no response thereto has been received till date, I see no impediment in allowing the present Petition. The Petition stands allowed in terms of prayer clause 'a' which reads thus:

"a. That a Legal Heirship Certificate be issued under the provision of Bombay Regulation Act VIII of 1827, Certifying that Petitioner i.e. (1) Daksha Naresh Kanparia alongwith (2) Ria Naresh Kanparia, (daughter from first wife) and (3) Mahek Naresh Kanparia, (daughter from second wife) are the only legal heirs and representatives of Deceased abovenamed."

- 10.** Issuance of proclamation stands dispensed with.
- 11.** Considering the request made by Mr. Rajbhor, Department is directed to issue the legal heirship certificate to the Petitioner within a period of two weeks from today positively without fail.
- 12.** With the above directions, Misc. Petition is disposed.

[MILIND N. JADHAV, J.]

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