

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 189 OF 2022

Sebastian Baptist Monterio ... Deceased

Simon Sebastian Monteiro ... Petitioner

Adv. Shailesh More for the Petitioner.

CORAM : ARIF S. DOCTOR, J.

DATE : 16th January, 2023

P.C. :

1. The Petitioner seeks the grant of a Legal Heirship Certificate under the provisions of Section 2 of the Bombay Regulation VIII of 1827 in respect of one Sebastian Baptist Monterio (“the deceased”), who died in Mumbai on 4th August, 1999. A copy of the death certificate is annexed to the Miscellaneous Petition. It is stated that despite due and diligent search, no Will of the deceased has been found. It is therefore assumed that the deceased died intestate.

2. The deceased left behind him surviving as his only heirs and next of kin according to Indian Succession Act, 1925, the persons mentioned in the table in paragraph No.2 of the Petition.

3. The reason for which the Legal Heirship Certificate is required is set out in paragraph No.3 of the Miscellaneous Petition.

4. The other legal heirs of the deceased have filed consent affidavits, which are annexed to the Petition.

5. No other Petition for Legal Heirship Certificate, Succession Certificate, Probate or Letters of Administration with or without Will annexed has been filed. Therefore, there is no impediment in law to the grant of relief.

6. I have heard the learned Counsel appearing on behalf of the Petitioner as well as perused the said Petition. I find that the same is in order and deserves to be allowed in the interest of justice.

7. The Miscellaneous Petition is therefore allowed in terms of prayer clause (a) which reads as under :-

"a) The legal heirship certificate there by certifying the Petitioner and other legal heirs are mentioned in paragraph no.2 as the recognize legal heirs of the deceased be granted to the Petitioner."

8. The Registry shall issue the Legal Heirship Certificate in the standard format prescribed for the same.

9. The Miscellaneous Petition is accordingly disposed of. There shall be no order as to costs.

(ARIF S. DOCTOR, J.)