

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS TESTAMENTARY PETITION (LODGING) NO. 29365 OF 2023
(This order is corrected as per speaking to the minutes of the order dated 13.12.2023.)

Gunja Mohammed Tyeballa @ Mohamedally T. Gunja
@ Gunja Mohammed Ali Tyeballa
@ Gunja Mohamedally Tyeballa and another ... Deceased

Farida Mohammed Bhatni @ Farida Mohammed Gunja ... Petitioner

Mr. Prabhu Velar for petitioner.

CORAM : MANISH PITALE, J.
DATE : 10th NOVEMBER, 2023

P.C. :

. Heard learned counsel for the petitioner. By this petition filed under the provisions of Bombay Regulation Act VIII of 1827, the petitioner is seeking issuance of legal heirship certificate in favour of all the surviving legal heirs of the deceased persons.

2. The deceased are the parents of the petitioner. It is stated that Gunja Mohammed Tyeballa i.e. the father of the petitioner, expired on 07.07.2010 at Mumbai. It is further stated that Vaja Mohammedally Gunja i.e. the mother of the petitioner, expired on 28.01.2021 at Mumbai. Copies of death certificates of both the deceased persons i.e. the parents of the petitioner, are annexed to the petition.

3. It is stated that both the deceased persons, at the time of their death, had a fixed place of abode at Flat No. 15-A, Darul Khalil, Electric House, Shahid Bhagat Singh Road, Colaba, Mumbai-400001.

4. It is further stated that both the deceased persons died intestate, without executing any will.

5. In paragraph No.5 of the petition, it is stated that both the deceased persons, as per Mohammadan law applicable to Shia Muslims, are survived by three legal heirs, being a son and two daughters. The petitioner is one of the daughters of the deceased parents. It is specifically stated that the parents and grandparents of both the deceased persons pre-deceased them.

6. The son and other daughter of the deceased persons i.e. the siblings of the petitioner, have given their consent affidavits, which are annexed to the petition.

7. In view of the material placed on record, the petition is accepted and proclamation is dispensed with.

8. In the interest of justice, the petition is allowed in terms of prayer clause (a), which reads as follows:

“a. This Hon'ble Court be pleased to issue a Legal Heirship Certificate to the Petitioner under the provision of Bombay Regulation VIII of 1827 certifying that a) Juzer Mohammed Ali Gunja (son), Farida Mohammed Bhatri nee Farida Mohammed Gunja (married Daughter) and (c) Rashida Nasir Abdullabhoy nee Rashida Mohammedally Gunja (married Daughter) are the only legal heirs of both the deceaseds'.”

(MANISH PITALE, J.)