

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
PETITION NO.4914 OF 2022

Sajid Abdullah Khan and another	...	Petitioners
Halimabee Abdulla Khan	...	Deceased

AND
PETITION NO.4923 OF 2022

Sharifa Abdullah Khan	...	Petitioner
Igbal Abdulla Khan	...	Deceased

Mr. Vijay Badgujar i/b. Mr. Hemant Ulhas Hasnale for Petitioner in both the Petitions.

CORAM : MANISH PITALE, J.
DATE : NOVEMBER 1, 2023

P.C. :

- . These two petitions are taken up for consideration together.
2. By these petitions, the petitioners are seeking grant of letters of administration in respect of the estate of the deceased. In Testamentary Petition No.4914 of 2022, the deceased is the mother of the petitioners and in Testamentary Petition No.4923 of 2022, the deceased is the brother of the petitioner.
3. In Testamentary Petition No.4914 of 2022, the deceased died at Mumbai on 30.05.1998. A copy of the death certificate is placed on record. It is stated that the deceased died intestate and she left behind her children i.e. the petitioners - two sons and two daughters as her only heirs. It is specifically stated that the parents of the deceased predeceased her and that, her husband also predeceased her, who died on 12.07.1981. Another son of the deceased named Igbal Abdullah Khan

predeceased her, who died on 22.12.1985. He was a bachelor. There was another daughter named Nazama Abdullah Khan, who also predeceased the deceased as she died on 31.01.1987. She died a spinster. Copies of the death certificates of the said individuals are also placed on record.

4. Along with the petition, consent affidavits of the two sisters have been placed on record. It appears that due to change in name of one of the sisters after marriage from Bismillha Abdullah Khan to Jasmine Shafi Ahmed Shaikh, there is some confusion as to whether consent is given by both the sisters of the petitioners or not. This has been sorted out. In fact, the petition itself stands amended to incorporate the name of the aforesaid sister post her marriage. This Court has perused the consent affidavits on record and that it becomes evident that this petition is an uncontested petition.

5. In view of the above, Testamentary Petition No.4914 of 2022 is allowed in terms of the prayer clauses.

6. The department is directed to issue letters of administration in favour of the petitioner expeditiously.

7. Testamentary Petition No.4923 of 2022 is filed by one of the sisters of the petitioners in Testamentary Petition No.4914 of 2022. This concerns one of the brothers i.e. Iqbal Abdulla Khan, who died a bachelor on 22.12.1985. A copy of the death certificate is annexed to the petition. It is specifically stated that the said deceased is survived by four legal heirs i.e. the petitioner, being one of the sisters of the deceased and two brothers (petitioners in Testamentary Petition No.4914 of 2022) and another married sister. It is specifically stated that the parents of the deceased also expired and there are no heirs of the deceased, other than those stated in paragraph 4 of the petition.

8. The consent affidavits of the two brothers and a married sister are annexed to the petition. As noted hereinabove, there appears to be some confusion as regards the name of the married sister, which has been sorted out by an amendment made in table given in paragraph 4 of the petition.

9. Hence, it is found that the consent affidavits of the other heirs have been placed along with this petition. Therefore, the petition is an uncontested petition.

10. In view of the above, Testamentary Petition No.4923 of 2022 is also allowed and it is directed that the letters of administration be issued in favour of the petitioner therein.

11. The department to proceed expeditiously in the matter.

(MANISH PITALE, J.)

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