

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
MISCELLANEOUS PETITION NO.268 OF 2023

Geetanjali Uday Shelke ... Petitioner

Uday Gulabrao Shelke ... Deceased

Mr. Drupad S. Patil for Petitioner.

Mr. Anand Nikhal for Smt. Suman Gulabrao Shelke - mother of deceased.

CORAM : MANISH PITALE, J.
DATE : FEBRUARY 22, 2024

P.C. :

. On 20.02.2024, this Court had considered the present petition for grant of legal heirship certificate.

2. Proclamation was issued on 29.11.2023 as the mother of the deceased had not come forward to give her consent. Since learned counsel has appeared on behalf of the mother of the deceased, the necessity of service of the proclamation is dispensed with.

3. On 20.02.2024, the learned counsel having instructions to appear for the mother of the deceased took time to take instructions in the matter. This Court specifically took note of the prayer in the present petition, whereby the petitioner i.e. the widow of the deceased is seeking issuance of legal heirship certificate in favour of all the surviving legal heirs of the deceased, including the mother of the deceased.

4. The petition was adjourned to be heard today. The learned counsel appearing for the mother of the deceased submits that she is not present in Court today. He further submits that the address of the mother of the deceased given in paragraph 4 of the petition is not correct as she

stays at another place in Mumbai. He has given the details to the learned counsel for the petitioner, who submits that appropriate amendment can be made in paragraph 4 to incorporate the correct address of the mother of the deceased.

5. Permission is granted to carry out appropriate amendment within one week from today. Re-verification is dispensed with.

6. The petitioner, being the widow of the deceased, has filed the present petition for grant of legal heirship certificate in favour of all the surviving legal heirs of the deceased.

7. It is stated that the deceased expired on 11.02.2023. Copy of his death certificate is annexed to the petition. It is stated that at the time of his death, the deceased was residing at 701 to 703, Ameya, R.B.I. Employees CHS, New Prabhadevi Road, Prabhadevi, Greater Mumbai, Maharashtra - 400 025. The deceased is stated to have died intestate, without executing any Will.

8. In paragraph 4 of the petition, the petitioner has given the details of the surviving legal heirs of the deceased, which include the mother, widow (petitioner) and two daughters. Consent affidavit of the major daughter Priyanka Uday Shelke is tendered. The petitioner herself has given consent affidavit for the minor daughter Abha Uday Shelke. The said affidavits are taken on record.

9. As noted hereinabove, the mother of the deceased is represented by the counsel. It appears that the mother of the deceased is living separately from the petitioner and that there may be certain differences of opinion between them. Nonetheless, since the petitioner is seeking issuance of legal heirship certificate in favour of all the surviving legal heirs of the deceased, including the mother of the deceased, there cannot

be any impediment in granting the prayer.

10. This Court is also satisfied that the issuance of legal heirship certificate in favour of all the surviving legal heirs of the deceased would assist the legal heirs in respect of properties and interests left behind by the deceased.

11. In view of the above, the petition deserves to be allowed.

12. Accordingly, it 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 the Petitioner along with the heirs mentioned in Para 4 are the only heirs and legal representatives of the said deceased.”

(MANISH PITALE, J.)

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