

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

MISCELLANEOUS PETITION NO. 12 OF 2024

Sabra Ali Raza Shah ... Petitioner

Ali Raza Jangi Shaikh ... Deceased

Mr. Sanjay P. Patankar for the Petitioner.

Mr. A. K. Upadhyay a/w Rohan Kharat for Caveator.

**CORAM: MANISH PITALE, J.
DATE : 17th APRIL 2024**

P.C. :

. Heard learned counsel for the petitioner.

2. By this petition, the petitioner seeks issuance of legal heirship certificate in favour of the surviving legal heirs of the deceased.

3. The deceased was the father of the petitioner. He died on 28th December 1990. Copy of his death certificate is annexed at Exhibit 'A' to the petition. It is stated that at the time of his death, the deceased was residing at Chawl No.A-18, Room No.4, S. P. Road, Deonar, Municipal Colony, Govandi, Mumbai 400 043. It is further stated that the deceased died intestate, without leaving behind any testamentary writing or Will.

4. In paragraph 4 of the petition, the petitioner has given the details of surviving legal heirs of the deceased, which include the petitioner (daughter), widow of the deceased and step-sister of the petitioner.

5. Since, consent affidavit was given only by the widow of the deceased, proclamation was issued.

6. The proclamation was returnable today. The step-sister of the petitioner is represented by counsel. He submits that *vakalatnama* of the advocate representing the step-sister of the petitioner has been e-filed today. The department to verify the same and take the *vakalatnama* on record.

7. The learned counsel appearing for the non-consenting legal heir i.e. step-sister of the petitioner submits that the legal heirship certificate cannot be issued only in the name of the petitioner.

8. Perusal of the prayer clause of the present petition shows that the petitioner is seeking issuance of legal heirship certificate in favour of the petitioner along with all the legal heirs mentioned in paragraph 4 of the present petition. Since paragraph 4 of the present petition includes the name of the said step-sister of the petitioner, as one of the legal heirs, the apprehension expressed on behalf of the non-consenting legal heir is appropriately addressed.

9. In the light of the material placed on record, the petition is accepted.

10. The petition is allowed in terms of prayer clause (a), which reads as follows :

“(a) That this Hon’ble Court be pleased to grant Legal Heirship Certificate to the Petitioner certifying that the Petitioner along with the legal heirs mentioned in para no.4 of this petition are recognized legal heirs/legal representatives and next of the kin of the Deceased Ali Raza Jangi Shaikh”

MANISH PITALE, J.