

(Corrected as per speaking to minutes of order dated 15.03.2024)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO.402 OF 2023

Sangita Ramesh Tambdkar @
Sangeeta Ramesh Tambadkar ... Petitioner

Krishnabai Shankar Bhanarkar ... Deceased

Ms. Sujata R. Babar for Petitioner.

CORAM : MANISH PITALE, J.
DATE : FEBRUARY 06, 2024

P.C. :

- . Heard learned counsel for the petitioner.
2. By this petition filed under the provisions of the Bombay Regulation Act VIII of 1827, the petitioner is seeking issuance of legal heirship certificate in favour of the surviving legal heirs of the deceased.
3. The deceased was a spinster. She died on 21.04.2019. Copy of the death certificate is annexed to the petition.
4. The petitioner is the niece of the deceased. It is stated that the deceased had two sisters and one brother. The brother and one of the sisters i.e. the mother of the petitioner have already expired. There is one sister (maternal aunt of the petitioner) who is alive and the petitioner has two siblings i.e. one brother and one sister. It is stated that the deceased at the time of her death had a fixed place of abode at 19/69, Old B.D.D. Chawl, Mahatma Phule Road, Naigaon, Dadar, Mumbai - 400 014. It is further stated that the deceased died intestate, without leaving behind any Will.
5. In paragraph 4 of the petition, the petitioner has given the details of the surviving legal heirs of the deceased i.e. maternal aunt Gauri

Jayant Desai @ Gulab Shankar Bhanarkar, as also her siblings i.e. Siddhi Vinayak Mahadik @ Sulbha Ramesh Tambadkar (sister of the petitioner) and Anil Ramesh Tambadkar (brother of the petitioner). It is specifically stated that the parents of the deceased predeceased her. Her brother died a bachelor on 16.01.1995 and another sister i.e. the mother of the petitioner died on 14.05.2017.

6. Attention of this Court is invited to the Schedule to the Hindu Succession Act, 1956, which shows that the surviving sister of the deceased and the petitioner as well as her siblings fall in the category of Class-II heirs of the deceased.

7. It is brought to the notice of this Court that the surviving maternal aunt of the petitioner and her brother and sister have all given consent affidavits. The same are annexed to the petition. This Court has perused the consent affidavits.

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

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

“(a) That Legal Heirship Certificate be issued certifying that Gauri Jayant Desai @ Gulab Shankar Bhanarkar; Sangita Ramesh Tambadkar @ Sangeeta Ramesh Tambadkar (petitioner); Siddhi Vinayak Mahadik @ Sulbha Ramesh Tambadkar (sister of the petitioner); and Anil Ramesh Tambadkar (brother of the petitioner) are the only heirs and legal representatives of the deceased under the provisions of Bombay Regulation Act VIII of 1827;”

10. In the peculiar facts and circumstances of the present case, the department is directed to issue the legal heirship certificate expeditiously.

(MANISH PITALE, J.)