

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

TESTAMENTARY PETITION NO. 4171 OF 2022

Anant Pandurang Velkar alias
Anant Pandurang Velker

...Deceased

Swarupa Milind Velkar

...Petitioner

WITH

TESTAMENTARY PETITION NO. 4066 OF 2022

WITH

TESTAMENTARY PETITION NO. 865 OF 2009

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- Mr. Ravindra Patkar and Mr. Jayant Wani, for Petitioner in all petitions.
- Ms. Rekha Rane, Testamentary Registrar.

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CORAM : MANISH PITALE, J.

DATE : 23rd FEBRUARY, 2024.

P. C. :

1. These three petitions concern grant of Letters of Administration with Will annexed and for grant of succession certificate in respect of the properties left behind by the deceased.

2. Earlier the husband of the petitioner had filed one probate petition and two petitions for grant of succession certificates. The said petitions had been allowed and grants were issued, but before appropriate steps could be taken in terms of the grants, the husband of the petitioner expired.

3. As a consequence, the petitioner, who is the widow of the said earlier petitioner, has filed the present proceedings.

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4. The petitioner herein moved an application for amendment in the original probate petition filed by her husband. Such amendment was granted by an order dated 16th January, 2023, as a consequence of which, the original probate petition was converted into a petition for grant of Letters of Administration with Will annexed. Apart from the said proceeding, the petitioner was constrained to file two fresh testamentary petitions for grant of succession certificates, particularly in respect of securities lying to the credit of the deceased.

5. It is further brought to the notice of this Court that when the husband of the petitioner had filed the testamentary petitions, the brother of the deceased had given his consent in all the three petitions.

6. But, when the aforesaid two testamentary petitions for grant of succession certificates were filed by the petitioner herein, the brother of the deceased did not respond. As a consequence, the petitioner was constrained to publish notice in the newspaper and yet there was no response from the brother of the deceased.

7. In these circumstances, the learned counsel for the petitioner submits that this Court may consider allowing the petitions for issuance of grants as prayed, on undertakings on affidavit being filed in the present petitions by the petitioner, whereby she would

undertake to pay the share of the brother of the deceased, if at all, he claims his share in the future.

8. Considering the peculiar circumstances of the present case, where the widow of the original petitioner has been constrained to approach this Court, due to the fact that appropriate steps could not be taken in the context of grants issued earlier, in the interest of justice, this Court is inclined to grant the prayers made on behalf of the petitioner.

9. This Court is further informed that otherwise the petitions are uncontested.

10. In view of the above, the petitions are allowed, subject to undertakings being filed on affidavit by the petitioner in all three petitions that in the event the brother of the deceased claims his share in future, she shall pay the same to him.

11. The department to take consequential steps in the matter.

(MANISH PITALE, J.)