

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 388 OF 2023**

Prashant Prakash Khadpe ... Petitioner

Prakash Gopal Khadpe ... Deceased

Ms. Ashwini A. Purav for petitioner.

CORAM : MANISH PITALE, J.

DATE : 10th MAY, 2024

P.C. :

. Heard learned counsel for the petitioner. By this petition, the petitioner seeks issuance of legal heirship certificate in his favour as the surviving legal heir of the deceased. It is the case of the petitioner that the deceased was unmarried and that he had adopted the petitioner. It is submitted that a “*Dattak Patra*” dated 19.12.2014 was executed, whereby the deceased adopted the petitioner. It is submitted that although at the time of adoption, the petitioner was major, he had been taken care of by the deceased, since his childhood.

2. In order to support the statement made in the present petition, the petitioner has filed an affidavit of his biological father, who was the brother of the deceased. The affidavit has been filed by the biological father Vishwanath Gopal Khadpe and alongwith the affidavit, copy of official gazette of Maharashtra for the week of 06.08.2015 is also placed on record. The relevant entry in the gazette shows that the name of the petitioner was changed from “Prashant Vishwanath Khadpe” to “Prashant Prakash Khadpe”, demonstrating that post-execution of “*Dattak Patra*”, the name of the petitioner was also changed to incorporate the name of the deceased as that of his father. The biological father in his affidavit, has given consent to the prayer made in the present petition.

3. In the light of the aforesaid material placed on record, this Court is proceeding on the basis that the petitioner is the adopted son of the deceased.
4. The deceased expired on 18.05.2015. Copy of death certificate is annexed to the petition. It is stated in the petition that at the time of death, the deceased had a fixed place of abode at Room No.816, 8th floor, Om Co-op. Hsg. Soc., M. P. Mill Compound, Nav Maharashtra Nagar, Tardeo, Mumbai-400034. It is further stated that the deceased died intestate, without leaving behind any testamentary writing or Will.
5. The legal heirship certificate is required in the context of the immovable properties left behind by the deceased.
6. In view of the material placed on record, the petition is accepted and proclamation is dispensed with.
7. In the interest of justice, the petition is allowed in terms of prayer clause (a), which reads as follows:

“(a) That a Legal Heirship Certificate be issued under the provision of Bombay Regulation Act VIII of 1827, certifying that Prashant Prakash Khadpe (Son of the Deceased, the Petitioner herein), is the only heirs and Legal Representative of the Deceased abovenamed.”
8. Department to take consequential steps in the matter.

(MANISH PITALE, J.)