

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION NO. 176 OF 2019
IN
TESTAMENTARY PETITION NO. 805 OF 2014**

Sunita Liladhar Chavan ... Applicant/Petitioner

Surekha Ramchandra Kadave ... Deceased

Mr. Prabhu Velar for applicant/petitioner.

CORAM : MANISH PITALE, J.

DATE : 15th MARCH, 2024

P.C. :

. By this notice of motion, the applicant/original petitioner is seeking direction to Municipal Corporation of Greater Mumbai (MCGM) to accept the letters of administration issued by this Court on 14.08.2015 for disbursal of gratuity, provident fund and other dues, without insisting upon succession certificate.

2. In the present case, the deceased was the sister of the applicant. She died as spinster and the petition filed by the applicant for grant of letters of administration was allowed, pursuant to which, the grant was issued on 14.08.2015. Copy of grant is annexed at Exhibit A to the notice of motion. The schedule of assets to the grant shows the aforesaid dues towards gratuity, provident fund, etc. payable to the deceased.

3. The applicant approached MCGM for release of the said dues by submitting the letters of administration. But, MCGM insisted upon succession certificate being produced. In this backdrop, the applicant was

constrained to move the present notice of motion, as far back as in the year 2019.

4. MCGM was made respondent in notice of motion. The learned counsel for the applicant informs this Court that an affidavit in reply dated 04.01.2020 of MCGM was received. It does not appear to have been filed on behalf of MCGM. It is informed that on earlier occasions, a counsel indeed appeared for the respondent-MCGM.

5. Today, there is no appearance on behalf of the respondent-MCGM. Copy of reply affidavit tendered by the learned counsel for the applicant is taken on record. A perusal of the same shows that the only reason why MCGM has not disbursed the dues, is the failure of the applicant in producing the succession certificate. Reference is made to the legal opinion of the Accounts department in order to take the said stand.

6. This Court is of the opinion that since the letters of administration were granted and issued on 14.08.2015 in favour of the applicant/original petitioner, there could be no reason for MCGM to refuse to disburse the dues. The legal opinion of the concerned department cannot be a ground for MCGM to deny the dues payable to the applicant on the strength of the letters of administration duly issued by this Court. It is to be noted that despite the fact that the letters of administration were issued as far back as on 14.08.2015 and the present notice of motion was filed in the year 2019, even till date, the dues have not been disbursed.

8. In view of the above, the notice of motion is allowed in terms of prayer clause (a), which reads as follows:

“(a) The Brihanmumbai Mahanagar Palika to accept the Letters of Administration in TP 805 of 2014 issued dated 14.08.2015 by this Hon’ble Court and not to insist on any other Succession Certificate to disburse the Gratuity, P.F. and other dues payable in the above matter.”

9. The respondent-MCGM is directed to disburse the dues in favour of the applicant at the earliest and in any case, within six weeks from today.

(MANISH PITALE, J.)

Priya Kambli