

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

MISCELLANEOUS PETITION NO. 475 OF 2023

Sushila Sitaram Bedekar

...Deceased

1. Mahadev Barku Jujam alias
Mahadev Baraku Jhuja & Ors.

...Petitioners

* * *

- Mr. Prabhu Velar a/w Mr. Manoj Mani, for Petitioners.

* * *

CORAM : MANISH PITALE, J

DATE : 04th JANUARY, 2024.

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SHRINIVAS
MALANI

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P. C. :

1. Heard learned counsel for the petitioner.

2 By this petition filed under the provisions of the Bombay Regulation Act, VIII of 1827, the petitioners seek issuance of legal heirship certificate in their favour. The deceased was the sister of petitioner No. 1. The deceased had two brothers including petitioner No. 1. The petitioner Nos. 2 to 5 are the heirs of the other brother, who also died.

2. It is stated in the petition that the deceased expired on 15th April, 2021. A copy of the death certificate is annexed to the petition.

3. It is stated that the deceased at the time of her death had a fixed place of abode at 2/391, Vishnu Villa CHS Ltd., 1st Floor, Nariman Road, Vile Parle (East), Mumbai - 400 057. It is also stated

that the the deceased died intestate without leaving behind any testamentary writing or will.

4. It is further stated in paragraph no. 4 of the petition that the husband of the deceased also died and that the deceased was issue less.

5. The learned counsel for the petitioners invited attention of this Court to the additional affidavit filed in the present petition. It is stated in the additional affidavit that the death certificate of the husband of the deceased was obtained. Copy of the death certificate is annexed to the additional affidavit, which shows the date of death as 30th July, 1982.

6. In that light, the petitioner submits that inadvertently in paragraph no. 4 of the petition the date of death of the husband of the deceased was not correctly mentioned and that his middle name was also wrongly stated. On this basis, The learned counsel for the petitioners seeks leave to amend paragraph no. 4 appropriately.

7. This Court has perused the copy of the death certificate of the husband of the deceased annexed at Exhibit "A" to the additional affidavit. The original death certificate was also produced for perusal of this Court. This Court has perused the same and returned it to the learned counsel. In that light, leave is granted to the petitioners to

carry out appropriate amendment in paragraph no. 4 of the petition, within one week from today. Re-verification is dispensed with.

8. In paragraph no. 4 of the petition, the petitioner has given details of the surviving legal heirs of the deceased, which include the petitioner No. 1, who is the brother of the deceased, as also petitioner Nos. 2 to 5, who are the widow and children of other brother of the deceased.

9. In view of the specific statement made in the petition and the documents filed therewith, as also the additional affidavit filed in the present petition, the petition is accepted and proclamation is dispensed with.

10. 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 (1) Mahadev Barku Jujam alias Mahadev Baraku Jhujam (Brother of the deceased and Petitioner No.1 herein), (2) Shobhana Chandrakant Zujam, (Sister-in-law) (Brother's Widow) of the deceased and Petitioner No. 2 herein), (3) Sameer chandrakant Zujam, (Nephew (Brother's son) of the deceased and Petitioner No. 3 herein) (4) Sudhir Chandrakant Zujam, (Nephew (Brother's Son) of the deceased and Petitioner No. 4*

herein) and (5) Sujit Chandrakant Zujam, (Nephew (Brother's Son) of the deceased and Petitioner No. 5 herein), are the only heirs and Legal representatives of the deceased."

(MANISH PITALE, J.)