

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

MISC. PETITION NO.1 OF 2024

Fenil Dungershi Aiya ... Deceased

Dungershi Talok Aiya & Anr. ... Petitioners

Mr. Vivek S. Tawde for the Petitioners.

CORAM : ARIF S. DOCTOR, J.

DATE : 9TH JANUARY 2024

P.C. :

1. The Petitioners seek the grant of a Legal Heirship Certificate under the provisions of Section 2 of the Bombay Regulation VIII of 1827 in respect of one Fenil Dungershi Aiya ("the deceased"), who died at Mumbai on 10th May 1994. A copy of the death certificate is annexed to the Miscellaneous Petition. It is stated that despite due and diligent search, no Will of the deceased has been found. It is therefore assumed that the deceased died intestate.

2. The deceased left behind him surviving as his only heirs and next of kin according to Hindu Succession Act, 1956, the persons mentioned in the table in paragraph 4 of the Petition.

3. The reason for which the Legal Heirship Certificate is required is set out in paragraph 13 of the Miscellaneous Petition.

4. The Petitioners are the only legal heirs of the deceased, hence there is no requirement of filing of any consent affidavits.

5. No other Petition for Legal Heirship Certificate, Succession Certificate, Probate or Letters of Administration with or without Will annexed has been filed. Therefore, there is no impediment in law to the grant of relief.

6. I have heard the learned Counsel appearing on behalf of the Petitioners as well as perused the said Petition. I find that the same is in order and deserves to be allowed in the interest of justice.

7. The Miscellaneous Petition is therefore allowed in terms of prayer clauses (a) & (b), which read as under :-

“a) That a Legal Heirship Certificate be issued under the provision of Bombay Regulation Act VIII of 1827, certifying that (1) Dungershi Talok Aiya (the father of the deceased and the Petitioner No.1 herein) and (2) Chetna Dungershi Aiya (the Sister of the deceased and the Petitioner No.2 herein), are the only heirs and Legal representatives of the deceased.

b) That issuance of Proclamation be dispensed with."

8. The Registry shall issue the Legal Heirship Certificate in the standard format prescribed for the same.

9. The Miscellaneous Petition is accordingly disposed of. There shall be no order as to costs.

(ARIF S. DOCTOR, J.)