

BEFORE : MRS. R. V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE: 20th FEBRUARY, 2024

CALLED FOR DIRECTION :

Sr. No. 24 – TP / 17 / 2024
(ECHCBM02205002023)

Ms. Jyoti Badgujar i/b. Mr. S. U. Lakdawala, Advocate for petitioner.

1. Perused the Petition. Heard Ld. Advocate for petitioner. Advocate for petitioner submits that the present petition is for Succession Certificate in respect of certain **Securities** belonging to deceased viz. Madhuben Bhulchand Mukhi alias Madhuben B. Mukhi alias Madhuben Mukhi, who died at Mumbai on 05.06.1997. Copy of death certificate is annexed at Exhibit- 'A' to the petition. Advocate for petitioner submits that since the identification proof of the deceased is not available they have filed Affidavit dated 30.10.2023 for dispensation of identification proof of the deceased. After perusal of the same it is found that the petitioner has mentioned that they had taken due care and diligent search but the said identification proof of the deceased is not available with them. Hence, the petitioner request that they may be permitted to file the present petition without the identification proof of the deceased. The said request is accepted. Copy of Affidavit of dispensation of identification proof of the deceased is annexed at Exhibit – B to the petition.

2. Advocate for petitioner submits that, the said Deceased at the time of her death was ordinarily residing at 117 / A-3, Madhuban, Road No. 24 (A), Sion (West), Mumbai - 400 022 and left property within Greater Bombay and in the State of Maharashtra.

3. Advocate for petitioner submits that, the said deceased died intestate and that due and diligent search has been made for the Will but none has been found.

4. Advocate for petitioner submits that the legal heirs left behind the deceased surviving as his only heirs next-of-kin according to Hindu Succession Act, 1956 are mentioned in para no. 4 of the said petition.

5. Advocate for petitioner submits that husband of the deceased viz. Bhulchand Tekchand Mukhi died on 16.01.1993, death certificate is annexed at Exhibit- C to the petition. Deceased left behind her two daughters and six sons viz. Sarla Dilip Somaiya, Purnima Mahendra Chandan, Vimal Bhulchand Majethia, Ashok Bhulchand Mukhi, Sanjay Bhulchand Mukhi, Sudhir Bhulchand Mukhi, Sunil Bhulchand Mukhi and Deepak Bhulchand Mukhi. The said deceased left no other heirs save and except mentioned at para no. 4 of the petition.

6. Advocate for petitioner submits that both daughters of the deceased viz. Sarla Dilip Somaiya and Purnima Mahendra Chandan have given their Joint Consent Affidavit in favour of the petitioner for issuance of Succession Certificate.

All five sons of the deceased viz. Vimal Bhulchand Majethia, Ashok Bhulchand Mukhi, Sudhir Bhulchand Mukhi, Sunil Bhulchand Mukhi and Deepak Bhulchand Mukhi have given their Joint consent for issuance of Succession Certificate in favour of the petitioner viz. Sanjay Bhulchand Mukhi (son of the deceased). Joint Consent Affidavits are annexed at page no. 16-20 to the petition.

7. Advocate for petitioner submits that the petitioner being the son of the deceased claims to be entitled for 1/8th share of deceased estate.

8. Advocate for petitioner submits that, there is no impediment under Section 370 of the Indian Succession Act, 1925 or under any other provision of this Act or any other enactment to the grant of the certificate of the validity thereof if it was granted.

9. Advocate for petitioner submits that no application has been made to any District Court or District Delegate or to any High Court for probate of any Will of the said deceased or for letters of administration with or without the Will for annexed to their property and credits.

10. Advocate for petitioner submits that no application has been made to any District Court for Succession Certificate in respect of any debt or security belonging to the estate of the deceased.

11. Advocate for the petitioner submits that the delay, in filing the present Petition is on account of the fact that Petitioner was Ignorant and unaware of obtaining any legal representation recently he has been advised to obtain the same hence delay in filing the petition be condone in interest of justice. In view thereof, delay is condoned.

12. Advocate for the petitioner submits that the General Notice was issued on **10.01.2024** in the aforesaid matter. Advocate for the petitioner has filed Affidavit of Service dated **29.01.2024** for proving General Notice through e-filing and Administration Bond dated **20.02.2024** also filed through e-filing. Advocate for petitioner tendered original Affidavit of service and Administration Bond, which are kept in record and proceeding.

13. This petition is filed for grant of Succession Certificate in respect to the **Securities** which was mentioned in Schedule-1 which is annexed to the petition. The petitioner has complied all the necessary

compliance for grant of the Succession Certificate in favor of the petitioner. Hence, facts stated by petitioner, on oath, remained unchallenged and required to be accepted. Accordingly, petition deserves to be allowed, as prayed for. Hence, following order:

ORDER

- 1) Petition is allowed and the Succession Certificate be granted to the petitioner for **Securities**, left by the deceased and shown in the schedule, in prescribed format.
- 2) Before issuance of the grant, the office to verify whether any cross Petition is pending or Affidavit resisting the petition is filed.
- 3) The petitioner to file an account as undertaken in the Administration Bond within stipulated period. Necessary endorsement be made on the Administration Bond, subject to satisfaction of the Department.

20.02.2024

Ajay Mishra

COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR