

Before : Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date :- 03rd February, 2024

FOR ISSUANCE OF CITATION :

6.TP/92/2024
(ECHCBM02065392023)

P. C. : Ms. Uma Palsuledesai, Ld. Advocate for the
Petitioner

1. Petitioner to state about the bar under Sec. 26 of the Hindu Succession Act, 1956. Ld. Advocate for the petitioner has relied upon the decision of the Hon'ble Bombay High Court in case of **Balchand Jairamdas Lalwant V/s Nazneen Khalid Qureshi (Appear From Order No. 1175 of 2014 delivered on 06.03.2018)**. Its equivalent citation is **AIR 2018 Bom 103 & 2018 SCC Online Bom 21174**. I have gone through the said Case Law. In paragraph No.18 of the said Judgment it is laid down that:-

“18. The right to inheritance is not a choice but it is by birth and in some case by marriage, it is acquired. Therefore, renouncing a particular religion and to get converted is a matter of choice and can not cease relationship which are established and exist by birth. Therefore, Hindu convert is entitled to his/her father's property, if father died intestate.”

2. In the cited case, similar facts were before the Hon'ble Court. Therefore, the ratio laid down by the Hon'ble Court has to apply to the present case.

3. Perused Petition. Issue Citation within two weeks from today. Issue Notice to the Collector. Issue citation to the non-consenting legal heirs of the deceased, if any. Advocate is directed to take steps and ensure that requisition under chapter XXVI of the Bombay High Court (O.S.) Rules, 1980 (for short “BHC Rules”) are complied with.

4. Advocate to take steps regarding Service of General Citation and also effect service upon non- consenting legal heirs, if any as per Rules 399 and 400 of the BHC Rules and also justify

the surety of non-consenting legal heirs, if any, and furnish Administration Bond within one week thereafter, if there are other legal heir including the petitioner.

5. Office to verify if any cross petition is filed, if cross petition file, then take steps to place before the Hon'ble Court under Rule 407 of BHC Rules.

6. S. O. to 13.03.2024

03.02.2024

**Officer on Special Duty,
with Testamentary Department**