

**BEFORE : MRS. R. V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE : 21st February'2024.**

Sr. No. 38- TP 200 of 2024
(ECHCBM02160512023)

Mr. Suyash Kalbhoar, Advocate i/b. B. G. Saraf for the petitioner.

Called for direction

1. Perused the Petition. Heard Advocate for petitioner. Advocate for petitioner submits that the present petition is for Succession Certificate in respect of certain **securities** belonging to the deceased viz. Mohamedbhai Jivabhai Sunesara alias Mohamadbhai Jivabhai Sunesara alias Mohemadali Jiwa Sunesara alias Sunsara Mohamedbhai Jivabhai, Agakhani Muslim , who died at Gujarat on 16.07.2020 . Copy of death certificate is annexed at Exhibit -'A' to the petition. Copy of the identification proof of the deceased is annexed at Exhibit "A1" to the petition.
2. Advocate for petitioner submits that the said deceased ordinarily resided at Meloj, TA Sidhpur, Dist Patan, Gujarat, and also residing at A/103, New Ekta CHS, Behrambaug, S.V.Road, Jogeshwari West,Mumbai 400 102 and left property within Greater Mumbai 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 by the deceased surviving as **his** only heirs next-of-kin according to **Mohammedan law, applicable to Muslims** are mentioned in para no. 4 of the said petition.

5. Advocate for the petitioner submits that the parents of the deceased predeceased the deceased on 30.12.2016.

Advocate for petitioner submits that the wife of the deceased viz. Aminaben Mohamed Bhai Sunesara predeceased the deceased.

Advocate for petitioner submits that the deceased left behind him one son and two daughters viz. Nizarali Mohamed Sunesara (son of the deceased/petitioner herein), Dhuka Hamidaben Rajabbhai (married daughter of the deceased) and Yasminben Babubhai Maknojia (married daughter of the deceased). Save and except there are no other legal heirs and next of kind left by the deceased, which is mentioned at para no. 4 of the petition.

Advocate for the petitioner submits that Dhuka Hamidaben Rajabbhai and Yasminben Babubhai Maknojia has given their consent for issuance of succession certificate in favour of Nizarali Mohamed Sunesara. The consent affidavits are annexed as page no. 15 to 19.

6. Advocate for Petitioner submits that being the son of deceased claims to be entitled for 1/2 share in the estate left by the deceased.

7. 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.

8. 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.

9. 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.

10. Advocate for the petitioner submits that there is delay of filing this petition be condoned as the concerned authorities asked for legal representation to transfer the property in favour of the Legal heirs. In view thereof, delay is condoned.

11. Advocate for the petitioner submits that the General Notice was issued on **11.01.2024** in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated **25.01.2024** for proving General Notice through e-filing and Administration Bond dated **21.08.2023** also filed through e-filing.

Advocate for petitioner submits that the date of lodging of the petition is wrongly mentioned in the Administration Bond. Advocate for petitioner request permission to carry out

the correction and reverification may be dispensed with. The said request is accepted. Advocate for the petitioner is allowed to carry out the correction forthwith. Advocate for the petitioner will upload the corrected version of the Administration Bond. Reverification is dispensed with. The Administration Bond and Affidavit of Service is filed online.

12. 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 certain **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.

**COMPANY REGISTRAR/
TESTAMENTARY REGISTRAR**