

**Before : Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date 12th April, 2024**

FOR COMPLIANCE:

48. TP/221/2024 P. Shri. R T Kharwar i/b Tripathi Associates Ld. Advocate for
(ECHCBM022204 C. : the Petitioner
62023)

1) This is a petition for grant of Letters of Administration, under the Provisions of Indian Succession Act, 1925 (for short "IS Act") for the properties left by the deceased, namely Dawoodbhai Nathubhai alias Dawoodbhai Nathubhai Sikh (For short "Said deceased"). The petitioner, namely Jameel Ahmed Fateh Mohamed Shailkh, has filed documents such as true copy of the death certificate of the deceased, identity proof of the deceased, oath in the prescribed format, affidavit of service citation.

2) I have heard Ld. Advocate and perused the petition along with the documents. Ld. Advocate for the Petitioner submitted that he has uploaded administration bond online having document no. EDHCBM02163732024 and affidavit of service online having document no. EDHCBM02202002024.

3) Said deceased died Bachelor on 02-01-1982 at Mumbai leaving behind him legal heir, shown in the paragraph No. 4 of the petition. Petitioner states that there are no other legal heirs to the deceased, through sister of the deceased being the kindred and it is stated that there are no other legal heirs except heirs shown in the petition. Deceased left properties shown in the schedule. The delay has been explained vide Rule 382 of the Rules.

4) Citation was issued, which has been duly affixed on the conspicuous part of the Hon'ble High Court and notice board of the Collector's Office at Mumbai and 14 days have been expired vide Rule 397(1) and (4) of the Bombay High

Court (O.S.) Rules, 1980(for short “BHC Rules”) and an affidavit to that effect has been filed. Notice to collector has been issued vide Rule 396 of BHC Rules. Till today, no one appeared to resist the claim of the petitioner or nothing is brought to the notice regarding pending litigation pertaining to the same properties. Hence, the petition is treated as uncontested one.

5) Petitioner has filed the administration Bond in prescribed form No. 118 with surety. In view of order passed by the Hon’ble Court in TP Nos. 2556 & 2559 of 2022 dated 28.02.2023, the petitioner being the sole class-I heir of the deceased is exempted from furnishing the administrative bond.

6) Ld. Advocate for the petitioner submitted that in view of provisions of Muslim Laws applicable to Sunni Muslim, the petitioner, being nephew (son of the sister) of the deceased, is entitled to seek a Letters of Administration. 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 Letters of Administration be granted to the petitioner for properties, left by the deceased and shown in the schedule, in prescribed format as per the provisions of the Indian Succession Act, 1925.
- 2) Before issuance of the grant, the office to verify that there is no cross Petition is pending or caveat resisting the petition is filed.
- 3) The petitioner to file an account as under taken in a Petitioner’s Oath within stipulated period.

12th April, 2024

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with Testamentary Department**