

**BEFORE : MRS. R. V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE : 10th June'2024.**

**Sr No. - 34 - TP 556 of 2024
(ECHCBM02047252023)**

Mr. Dinesh Arjun Wani, Advocate i/b. Sunil Sharma for petitioner.

Called for Compliance

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. Ashwin Chimanlal Tolia, who died at Mumbai on 16.05.2000. Copy of death certificate is annexed at Exhibit -'A' to the petition.

Advocate for petitioner submits that since identification proof of the deceased is not available petitioner had filed Affidavit dated 14.10.2023 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 for dispensation of identification proof of the deceased is annexed as Exhibit "A1" to the petition.

2. Advocate for petitioner submits that the said deceased ordinarily resided at 15, Mangalam CHS LTD, Jam Mandir Road, Daulat Nagar, Near Jam Mandir, Borivali East, Mumbai-400066, 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 by 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 the petitioner submits that the parents of the deceased predeceased the deceased.

Advocate for the petitioner submits that the Deceased was married to Jagruti Himatlal Shah. Copy of marriage Certificate of deceased Ashwin Chimanlal Tolia and Jagruti Himatlal Shah is annexed as Exhibit 'B' to the petition.

Advocate for the petitioner submits that the Deceased and said Jagruti were issueless and they had legally adopted Vishal Tolia as their son. Xerox copy of Adoption Deed of Vishal Tolia is annexed as Exhibit "C" to the petition.

Advocate for the petitioner submits that the Deceased and said Jagruti also legally adopted Mansi Tolia as their Daughter. Copy of Adoption Deed of Mansi Tolia. is annexed as Exhibit 'D' to the petition. After the death of the deceased, the widow of the deceased remarried on 03.05.2003. Copy of marriage certificate of Jagruti Himatlal Shah and Mahesh Kumar Mehta annexed and marked as Exhibit 'E' to the petition. After the death of the Deceased and remarriage of Jagruti, the said Mansi was readopted by Jagruti and her Second husband Mahesh Kumar Mehta.

Advocate for petitioner submits that the deceased left behind him son and daughter viz. Vishal Ashwin Tolia (son of the deceased) and Mansi Ashwin Tolia (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 petitioner submits that Mansi Ashwin Tolia had given her consent for issuance of succession certificate in favour of Vishal Ashwin Tolia.

The consent affidavits are annexed as page no. 39 to 41.

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 **23.02.2024** in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated **10.04.2024** for proving General Notice filed through

e-filing and Administration Bond dated **07.03.2024** also filed through e-filing.

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.

ksa/rvr

**COMPANY REGISTRAR/
TESTAMENTARY REGISTRAR**