

BEFORE : MRS. R.V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE : 3rd July'2024.

Sr. No. – 21 - TP/744/2024
(ECHCBM02134742023)

Ms. Aditi Tamhankar, Advocate i/b. Mandlik and Partners for the petitioner.

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 no. (1) viz. Damle Yashwant Narayan alias Yeshwant Narayan Damle who died at Mumbai on 30.12.2007. Copy of death certificate is annexed at Exhibit -'A' to the petition. And deceased no. (2) viz. Kalpana Yeshwant Damle who died at Mumbai on 02.01.2002. Copy of death certificate is annexed at Exhibit -'B' to the petition.

Advocate for petitioner submits that since identification proof of the deceased no. 1 and 2 is not available petitioner had filed affidavit dated 12.9.2023 for dispensation of identification proof of the deceased no. 1 and 2. After perusal of the same it is found that the petitioner has mentioned that they had taken search, but the said identification proof of the deceased No. 1 and 2 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 no. 1 and 2. The said request is accepted. Copy of Affidavit for dispensation of

identification proof of the deceased is annexed as Exhibit “B1” to the petition.

Advocate for the petitioner submits that she may be permitted to carry out averment in para no. 2 with respect to identification proof of both the deceased. She will upload the corrected version and reverification may be dispensed with. The said request is accepted. Advocate for the petitioner is allowed to carry out averment with respect to identification proof of both the deceased forthwith and upload the corrected version. Reverification is dispensed with.

Advocate for the petitioner submits that she may be permitted to carry out correction with respect to the name of the deceased in the cause title. She will upload the corrected version and she reverification may be dispensed with. The said request is accepted. Advocate for the petitioner is allowed to carry out correction with respect to the name of the deceased in the cause title and upload the corrected version. Reverification is dispensed with.

2. Advocate for petitioner submits that both the said deceased ordinarily resided at B/7 Indravadan Co-op. Housing Society, Padmabai Thakkar Road, Mahim, Mumbai - 400016 and left property within Greater Bombay and in the State of Maharashtra.

3. Advocate for petitioner submits that, both 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 both the deceased surviving as **their** 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 deceased no. 2 viz. Kalpana Yeshwant Damle, predeceased the deceased No. 1 viz. Damle Yashwant Narayan alias Yeshwant Narayan Damle (husband of the deceased).

Advocate for petitioner submits that both deceased left behind them two sons viz. Bhalchandra Yeshwant Damle (son of the deceased/petitioner no. 1) and Ashish Yeshwant Damle (son of the deceased/petitioner No. 2). 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.

6. Advocate for Petitioner submits that being the **sons** of deceased claims to be entitled for **50%** 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 **15.03.2024** in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated **03.05.2024** for proving General Notice filed through e-filing.

Pursuant to order dated 28.02.2023 passed by Hon'ble Shri Justice Arif S. Doctor, in Testamentary Petition No. 2556 of 2022 and Testamentary petition No. 2559 of 2022 directions were given to the Registry, in all matters for Letters of Administration and Succession Certificate, whenever there is sole legal heir, who is Class -I legal heir, Registry is directed to not to insist for filing/furnishing of Administration Bond. Hence, as per direction of the Hon'ble Court filing of Administration Bond is dispensed with for the sole class I legal heir.

Advocate for the petitioner submits that “pursuant to the order dated 2.2.2024 passed by the Hon’ble Shri Justice Manish Pitale, in Testamentary Petition No. 2918 of 2023, direction was given to the Registry in case of all the surviving legal heirs of the deceased are petitioners before the Court and the right or interest of no other legal heir is required to be protected, the department shall not insist on furnishing Administration Bond. Hence, Administration Bond is dispensed with”.

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.

ksa/rvr

**COMPANY REGISTRAR/
TESTAMENTARY REGISTRAR**