

**Before :Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date 13th August, 2024**

FOR COMPLIANCE:

72. TP/1342/2024 P. C. Ms. Jyoti Badgujar i/b Lakdawala & Co. Ld. Advocate for
[Original] : the Petitioner
(ECHCBM0220838
2023)

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 Shilpa Manohar Kakwani alias Shilpa M. Kakwani alias Shilpa Akiv Ali (For short "Said deceased"). The petitioner, namely AKIV ASGAR ALI 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 amendment has been carried out.

3) Said deceased died Married on 26/01/2022 at Mumbai leaving behind her legal heir, shown in the paragraph No. 4 of the petition. Petitioner states that there are no other legal heirs to the deceased, except heirs shown in the petition. Deceased left properties shown in the schedule.

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) In view of the Order, passed in the TP No. 2918/2023,

petitioner is sole surviving legal heir of the deceased and therefore they are exempted from the furnishing the surety Bond.

6) Ld. Advocate for the petitioner submitted that in view of provisions of the sec. 21 of the Special Marriage Act, 1954 read with Sec. 33 and 33A of the Indian Succession Act, 1925, the petitioner, being Husband 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.

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