

BEFORE : MRS. R. V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE : 19th September'2024

Sr No. -12- TP/1663/2024
(ECHCBM02046212023)

Mr. Sulay Mitra i/b. Mr. Krupa Parekh, Advocate for petitioner.

For Compliance

1. It has been noticed that Affidavit for dispensation of ID proof of the petitioner dated 08.09.2023 executed before Peter Mertz, Notary Public – State of New York has been approved and accepted by the Registry online without verifying the permission to file / lodge the said Affidavit which is approved and filed by C-filing Department. Master & Assistant Prothonotary (Judl.) requested to verify, how the Affidavit is taken on record. The said Affidavit was filed / approved without permission for acceptance for filing.

Advocate for petitioner has tendered across the bar the Original Affidavit of the petitioner and permission to file the said Affidavit is granted. The said Affidavit is returned to the Advocate for petitioner to file on-line as per procedure.

2. Perused Petition. Heard Ld. Advocate for petitioner. This petition is for Succession Certificate in respect of certain **securities** belonging to the deceased viz. Avinash Chander Kapur, who died at 19, Old Farms Crossing, Avon, Connecticut-06001 on 04.07.2005. Copy of death certificate is annexed at Exhibit- 'A' to the petition.

Advocate for petitioner submits that since the identification proof of the deceased is not available they have filed Affidavit dated 08.09.2023 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. Affidavit of dispensation of identification proof of the deceased is filed through e-filing.

3. Advocate for the petitioner submits that the deceased ordinarily resided at residing at 19, Old Farms Crossing, Avon, Connecticut-06002 and/or left property within Greater Bombay and in the State of Maharashtra and elsewhere in India.

“The Hon’ble Court (CORAM : Hon’ble Shri Manish Pitale J.) on 29th September, 2023 passed direction in TP No. 233 of 2022 in which the Hon’ble Court decided the issue of jurisdiction under Section 371 of Indian Succession Act and decided the Jurisdiction of this Hon’ble Court.” In view of the order dated 29th September, 2023, the present petition proceed further.

4. 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.

5. 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.

Advocate for petitioner to correct the Act and upload the corrected version of the petition.

6. Advocate for the petitioner submits that the parents of the deceased predeceased the deceased. Deceased left behind one widow and two sons viz. Margaret Campbell Kapur (Widow of the deceased), Arjun R. Kapur alias Arjun Ross Kapur (Son of the deceased / petitioner herein) and Bryce Campbell Kapur (Son 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 and 5 of the petition.

Advocate for petitioner submits that Margaret Campbell Kapur (Widow of the deceased) and Bryce Campbell Kapur (Son of the deceased) had given their consent for issuance of succession certificate in favour of the petitioner viz. Arjun R. Kapur alias Arjun Ross Kapur (Son of the deceased). The consent affidavits are annexed as page no. 35-42 to the petition.

7. Advocate for Petitioner submits that the petitioner is the one of the son of the deceased, that the petitioner has 1/3rd share in the property of the deceased.

8. 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.

9. 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.

10. 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.

11. Advocate for the petitioner submits that the father of the deceased died on 04.07.2005 that the petitioner was unaware about the present assets i.e. movable properties in India and hence in April, 2022 he came across the said movable properties. Therefore, he had to make legal representation in India. Hence he was searching for an advocate and in the month of December, 2022 he found an advocate and since the petitioner resides in USA it took time for him to co-ordinate with the Advocate and to file present petition. Also that the petitioner was unaware about the legal representation to be made for administering the estate of the deceased, hence there is delay in filing this petition. Thereafter, the petitioner approached the present Advocates for the legal remedies. That after understanding the procedure and gathering the information, the petitioner instructed the present Advocate to file the present petition for Succession Certificate in the month of December, 2022. Therefore, delay in filing the petition may be condoned. In view thereof, delay is condoned.

12. Advocate for the petitioner submits that the General Notice was issued on **06.04.2024** in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated **12.08.2024** for proving General Notice filed through

e-filing and Administration Bond dated **02.05.2024** also filed through e-filing.

13. 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.

Office to issue grant as soon as Advocate for petitioner has filed Corrected version of the petition and Approved Affidavit of the petitioner.

**COMPANY REGISTRAR/
TESTAMENTARY REGISTRAR**

Ajay