

**Before :Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date 30th July, 2024**

FOR COMPLIANCE:

42.TP/2411/2024 P.C : Ms. Jyoti Badgujar i/b Lakdawala & Co. Ld. Advocate for the
[Original] Petitioner

(ECHCBM021818
92023)

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 Madhookar Madhav Barpande alias Madhukar Madhav Barpande, alias Madhookar Madhorao Barpande alias Madhukar Madhavrao Barpande alias Madhookar M. Barpande (For short "Said deceased"). The petitioner, namely Anjum Aminuddin Sayed, has filed documents such as true copy of the death certificate of the deceased, affidavit with document to dispense with requisition of 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 she has uploaded affidavit of service having document no. EDHCBM02419442024.

3) Said deceased died as a Married on 28/01/2014 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, 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) Ld. advocate for the petitioner submitted that after marriage the petitioner has changed her name from Ms. Rashmi Madhookar Barpande. Such statement is made in paragraph No. 9 of the petition. She further relied upon the decision of the Hon'ble Bombay High Court in case of **Balchand Jairamdas Lalwant Vs/ Nazneen Khalid Qureshi (Appeal From Order No. 1175 of 2014, delivered on 06th March 2018)** in respect of the sec. 26 read with Sec. 2 of the Hindu Succession Act, 1956 (for short "HS Act"). In view of the law laid down by the Hon'ble Bombay High Court, vide paragraph No.18 of the said Judgment, the petitioner's claim has to be considered.

6) 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.

7) Ld. Advocate for the petitioner submitted that in view of provisions of the Hindu Succession Act, 1956, the petitioner, being daughter 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) The petitioner to file an account as under taken in a Petitioner's Oath within stipulated period.
- 3) Before issuance of the grant, the office to verify that there is no cross Petition is pending or caveat resisting the petition is filed.

30th July, 2024

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with Testamentary Department