

BEFORE : MRS. R.V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE : 16th July'2024

Sr. No. – 21 - TP/893/2024
(ECHCBM02003622024)

Mr. Pravin Kadam, Advocate for the 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 **debts** and **securities** belonging to the deceased No. (1) viz. Khimji Hirji Nisar alias Khimjibhai Hirji Nisar, who died at Gujarat on 03.09.1998 . Copy of death certificate is annexed at Exhibit -'A' to the petition. And deceased No. (2) viz. Laduben Nisar, who died at Gujarat on 07.07.2001. Copy of death certificate is annexed at Exhibit -'B' to the petition. Copy of identification proof of the deceased no. 2 is annexed at Exhibit -'B2' to the petition.

Advocate for petitioner submits that since identification proof of the deceased no. (1) is not available petitioner had filed Affidavit dated 18.06.2024 for dispensation of identification proof of the deceased no. 1. 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 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. The said request is accepted. Copy of Affidavit for dispensation of identification proof of the deceased no. 1 is annexed Exhibit B1 to the petition.

2. Advocate for petitioner submits that both the said deceased ordinarily resided at Mumbai 6, Dhunbad, 23, Noshir Bharucha Marg, Near Grant Road Post Office, Tardeo, Mumbai, Grant Road, Mumbai -400007 and left property within Greater Mumbai and in the State of Maharashtra and elsewhere in India.

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 the **parents of both the deceased predeceased the deceased.**

Advocate for petitioner submits that both the deceased left behind them three sons viz. (1) Madhukant Khimji Nisar (son of both the deceased/petitioner herein), (2) Vipin Khimji Nisar (son of both the deceased) and

(3) Raichand Khimji Nisar (son of the deceased) died on 19.12.2010 leaving behind (3a) Leelavati Raichand Nisar (daughter in law of both the deceased/wife of deceased son), (3b) Jayesh Raichand Nisar (grand son of both the deceased/ son of deceased son) (3c) Komal Chetan Dhanani (grand daughter of both the deceased/daughter of deceased son) and (4) Pushpaben Krishnakant Gala (daughter of both 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 Vipin Khimji Nisar, Leelavati Raichand Nisar, Jayesh Raichand Nisar, Komal Chetan Dhanani and Pushpaben Krishnakant Gala had given their consent for issuance of succession certificate in favour of Madhukant Khimji Nisar.

The consent affidavits are annexed as page no. 26 to 40.

6. Advocate for Petitioner submits that being the **son** of deceased claims to be entitled for **1/4th** 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 **06.04.2024** 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 and Administration Bond dated **26.04.2024** also filed through e-filing.

Advocate for the petitioner submits that he may be permitted to carry out correction with respect to date of lodging of the petition in the Administration Bond. He will upload the corrected version and request reverification may be dispensed with. The said is accepted. Advocate for the

petitioner is allowed to carry out correction in the Administration Bond and upload the corrected version. Reverification is dispensed with.

12. This petition is filed for grant of Succession Certificate in respect to the **debts** and **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 **debts** and **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.

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**