

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION

TESTAMENTARY PETITION NO. 1030 OF 2024

Rabab Behjat HussainPetitioner

vs.

Allahrakhibai Sharafally LakdawalaDeceased

Mr. N.R. Gandhi a/w. Mr. Ratnesh Dube, for the Petitioner.

CORAM : N. J. JAMADAR, J.

DATE : OCTOBER 25, 2024

P.C.:

1. Heard the learned counsel for the petitioner.
2. This petition is filed for grant of Letters of Administration De-Bonis Non in respect of the property and credits of the deceased which remained un-administered.
3. By an order dated 14th February, 2020 Letters of Administration were granted to Behjat Shamshad Hussain, the petitioner in Testamentary Petition No. 1727 of 2019. Behjat Shamshad Hussain, the petitioner, has passed away on 11th November, 2020 without administering the estate of deceased fully.
4. The petitioner is the widow of Behjat Shamshad Hussain. The Department has raised an objection to the grant of Letters of Administration as under section 259 of the Indian Succession Act the Letters of Administration can be granted only to those persons to whom original grant could have been made.

5. The Department is of the view that there are other heirs of the deceased namely, Fatema Fakruddin Arsiwala, the heir at serial No. 3, who could have been granted the Letters of Administration De-Bonis Non.

6. The learned counsel for the applicant/ petitioner submits that all the heirs of the deceased including Fatema Fakruddin Arsiwala have given consent for grant of Letters of Administration De-Bonis Non to the petitioner.

7. I have perused the affidavits of the legal heirs of the deceased giving their consent for the grant of Letters of Administration to the petitioner. Fatema Fakruddin Arsiwala, to whom the Letters of Administration could have been granted, has also filed an affidavit giving her consent for grant of Letters of Administration to the petitioner.

8. In these circumstances, I do not find any impediment in dispensing with the office requisition/objection that the Letters of Administration cannot be granted to the petitioner.

9. The Department to now proceed with the petition expeditiously.

(N. J. JAMADAR, J.)