Before : Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date :- 09th August, 2024

FOR COMPLIANCE :

1. TP/1229/2024 [Original] (ECHCBM02020662024)	P. C. :	Ms. Swati Mathkar i/b Manish Bijutkar Ld. Advocate for the Petitioner

1. Ld. Advocate for the petitioner has filed the written submission in respect of the tenability of the petition for letters of administration, though all properties are movable (i.e. Debts and Securities). Ld. Advocate for the petitioner has relied upon the decisions of the Hon'ble Bombay High Court in cases of **Birdibal Mohanlal Vs. Chunilal Chandmal((1945) 47 BOM L RS 862, AIR 1946 BOMBAY 163)** and in case of **Sorab M Javeri vs. Jal Rattanji Patel (INTERIM APPLICATION (L) NO. 7057 OF 2020 IN TESTAMENTARY PETITION NO. 172 OF 2019, delivered on 19.01.2021).**

2. It appeared that the petitioner, namely Jagdish Vasanji Gala, has filed the petition for grant of letters of administration in respect of the properties left by Pradip Vasanji Gala and Pravina Pradip Gala. The petitioner is brother of Pradip and brother in law of Pravina. All properties mentioned in the schedule-I of the petition are fixed deposits maintained with the Banks, Demat Account maintained with Angel One and shares of companies.

3. Ld. Advocate for the petitioner submitted that there is no restriction to grant Letters of

administration in respect of debts and securities in absence of immovable or other properties.

4. In case of **Sorab Javeri(cited supra)** the letter of administration was issued in respect of the immovable and movable properties left by Dr. Jal Patel. However, the administrator died and some property left to be administered. Therefore, the said proceeding was taken out.

5. In case of **Birdibal Mohanlal (Cited Supra)**, properties sought to be administered were of Hindu Joint family. However, in present case, property of the deceased is appears to be self acquired.

6. In this regard, provision of Sec. 370 of the Indian Succession Act, 1925(for short "IS Act") is relevant, which is reproduced as under:-

Part-X

Succession Certificte

> **"370. Restriction on grant of certificates under this part.**—(1) A succession certificate (hereinafter in this Part referred to as a certificate) shall not be granted under this Part with respect to any debt or security to which a right is required by section 212 or section 213 to be established by letters of administration or probate:
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> Provided that nothing contained in this section shall be deemed to prevent the grant of a certificate to any person claiming to be entitled to the effects of a deceased Indian Christian, or to any part thereof, with respect to any debt or security, by reason that a right

thereto can be established by letters of administration under this Act.

(2) For the purposes of this Part, “security” means — (a) any promissory note, debenture, stock or other security of the Central Government or of a State Government;

(b) any bond, debenture, or annuity charged by Act of Parliament of the United Kingdom on the revenues of India;

(c) any stock or debenture of, or share in, a company or other incorporated institution;

(d) any debenture or other security for money issued by, or on behalf of, a local authority;

(e) any other security which the State Government may, by notification in the Official Gazette, declare to be a security for the purposes of this Part.”

7. Hence, the submission of the Ld. Advocate that Letters of administration can be granted in respect of debts and securities without immovable property can not be determined by this office. In this regard, only the Hon’ble Court has power to accept this submission or determine the issue arose in the proceeding.

8. Hence, it would be proper for the petitioner to seek direction from the Hon’ble Court in this regard.

9. S.O. to 26.08.2024

09.08.2024

Officer on Special Duty,
with Testamentary Department