

**BEFORE : MRS. R.V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE : 12th July'2024**

Sr. No. – 20 -TP/1270/2024
(ECHCBM02003252024)

Ms. Bina Shivhare, 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 **Securities** belonging to the deceased viz. Jafarbhai Sarafali Mahabaleshwarwala alias Jafarbhai Mahabaleshwarwala alias Jaffer Sarafali Mahables Warwala, Shia muslim who died at Mumbai on 16.12.2002. Copy of death certificate is annexed at Exhibit -'A' to the petition.

Advocate for petitioner submits that since identification proof of the deceased is not available petitioner had filed Affidavit dated 04.10.2023 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 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. Copy of Affidavit for dispensation of identification

proof of the deceased is annexed as Exhibit “A1” to the petition.

2. Advocate for petitioner submits that the said deceased ordinarily resided at Porbunder Castle, 2nd floor , C-Block,3rd Pasta Lane, Opp. Bharat Gas Co, Colaba, Mumbai-400005 and left property within Greater Bombay in the State of Maharashtra.

3. 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.

4. Advocate for petitioner submits that the legal heirs left behind by the deceased surviving as **his** only heirs next-of-kin according to **Mohammedan Law** are mentioned in para no. 4 of the said petition.

5. Advocate for the petitioner submits that the parents and grandparents of the deceased predeceased the deceased. The wife of the deceased viz: Memunabai Jafferbhai Mahabaleshwarwala is since deceased on 11/12/2003. Copy of the death certificate is annexed as Exhibit “B”.

Advocate for petitioner submits that the deceased left behind him only son Saifee Jafferbhai Mahabaleshwarwala (son of the deceased/petitioner herein). 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.

6. Advocate for Petitioner submits that being the **son** of deceased claims to be entitled for **full** 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 **22.04.2024** for proving General Notice filed through e-filing.

Pursuant to order dated 28.02.2023 passed by Hon'ble Shri Justice Arif S. Doctor, in Testamentary Petition No. 2556 of 2022 and Testamentary petition No. 2559 of 2022 directions were given to the Registry, in all matters for Letters of Administration and Succession Certificate, whenever there is sole legal heir, who is Class -I legal heir, Registry is directed to not to insist for filing/furnishing of Administration Bond. Hence, as per direction of the Hon'ble Court filing of Administration Bond is dispensed with for the sole class I legal heir.

12. 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.

COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR