

Before : Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date :- 22nd April, 2024

FOR ISSUANCE OF CITATION :

32. TP/1558/2024 P.C. : Ms. Dimple Jain i/b Indira Labde Ld. Advocate for the
[Original] Petitioner
(ECHCBM02095642
023)

1. Perused petition. It appears that petitioner no. 1 has filed the petition for himself and Petitioner no. 1 being Power of Attorney of Sameer Kumar Pravinchandra Desai (i.e. Petitioner no. 2) has filed the petition. However, Petitioner no. 1 is entitled for general grant but Power of Attorney holder of petitioner no. 2 entitles for limited grant vide Section 243 of the Indian Succession Act, 1925 and Rule 418 of the Bombay High Court (O. S.) Rules, 1980. For the sake of contention of Section 243 of the Indian Succession Act, 1925 and Rule 418 of the Bombay High Court (O. S.) Rules, 1980 are reproduced as under :

Section 243 of Indian Succession Act, 1925

Section 243 - Administration to attorney of absent person entitled to administer in case of intestacy.

When a person entitled to administration in case of intestacy is absent from the State, and no person equally entitled is willing to act, letters of administration may be granted to the attorney or agent of the absent person, limited as mentioned in section 241.

Rule 418 of Bombay High Court (O. S.) Rules, 1980

Rule 418. Limited grant not to be issued to person entitled to general grant. – Unless otherwise ordered by the Judge in

Chambers, a limited grant shall not be issued to a person who is entitled to a general grant of administration to the property of the deceased.

2. The petitioner no. 1 is the Power of Attorney of petitioner no. 2. Hence, in view of Sec 243 of the Indian Succession Act, 1925 (for short "IS Act"), unless requisite conditions fulfilled, petition can not be entertained to grant limited Grant. Such conditions are (1) the heir of the deceased is absent from the state (2) the person applying the attorney of the absent heir and (3) there is no other heir of the deceased is willing to act or apply.

3. In present petition, the petitioner no. 1 is entitled to apply for Letters of Administration and therefore said petitioner no. 2 cannot be present the petition in capacity of Power of Attorney of Petitioner No. 2, as conditions of Section 243 of the Indian Succession Act, 1925 are not complied with.

4. Furthermore, vide Rule 418 of the Bombay High Court (O. S.) Rules, 1980, the petitioner no. 2 is entitled to get general grant and therefore, limited grant can not be issued to him, unless the Hon'ble Court's orders. Hence, the petitioner to take steps. Hence, adjourned.

4. S. O. to 07.05.2024

22.04.2024

**Officer on Special Duty,
with Testamentary Department**