

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

TESTAMENTARY PETITION NO. 1558 OF 2024

Mitul Pravinchandra Desai and Anr. ...Petitioners
Versus
Pravinchandra M. Desai and
Mrs.Vinodaben Pravinchandra Desai ...Deceased

Mr. Chaitanya Purankar i/by Ms. Indira Labde, for Petitioners.

CORAM : N. J. JAMADAR, J.
DATE : 27th SEPTEMBER 2024

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PC.:

1. Heard the learned Counsel for the Petitioners.
2. This Petition is filed for Letters of Administration without Will, to the property and credits of Pravinchandra M. Desai and late Mrs.Vinodaben Pravinchandra Desai.
3. The petition is filed by Petitioner No.1 for himself and also in the capacity of power of attorney of Sameer Kumar Pravinchandra Desai, the petitioner No.2. On 22nd April 2024, the Department has raised an objection that the petitioner No.1 cannot be granted limited grant in the capacity of constituted

attorney of Petitioner No.1 as Petitioner No.1 is entitled for general grant in his own right. A reference is made to the provisions contained in Section 243 of the Indian Succession Act, 1925 and Rule 418 of the Bombay High Court (O.S.) Rules, 1980.

4. Rule 418 governs the situation where a person entitled to the general grant seeks a limited grant. *Ex-facie*, Rule 418 does not cover a case where a person, who is entitled to general grant, files a petition for himself and also for other heirs in the capacity of the latter's constituted attorney. The prohibition is also not absolute. The Judge in Chambers is empowered to allow even a limited grant being issued to a person who is entitled to a general grant of administration to the property of the deceased.

5. Evidently, Petitioner No.1 has filed and verified the Petition for herself and also in the capacity of the constituted attorney for Petitioner No.2. I have perused the Power of Attorney executed by Sameer Kumar Pravinchandra Desai, Petitioner No.2 in favour of Mithul Pravinchandra Desai. The Power of Attorney executed by Petitioner No.2 in favour of Petitioner No.1 contains full authorization. In a sense, Petitioner No.2 has agreed to be bound by the actions and decisions of Petitioner No.1. Even otherwise,

Petitioner No.1 is seeking Letters of Administration in his individual capacity as well.

6. Therefore, neither Section 243 of the Indian Succession Act, 1925, nor Rule 418 of the Bombay High Court (Original Side) Rules, 1980 constitutes an impediment in granting Letters of Administration to Petitioner No.1 in his individual capacity and also as a constituted attorney of Petitioner No.2.

7. Thus, the office objections dated 22nd April 2024 stand dispensed with.

8. Department to now proceed with the Petition in accordance with law.

(N. J. JAMADAR, J.)