

**BEFORE : MRS. R. V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE : 2nd September'2024.**

**Sr. No. 22- TP 2174 of 2024
(ECHCBM02200772023)**

Ms. Tanaya Goswami, Advocate for the petitioner.

1. Perused the Petition. Heard Advocate for petitioner. Advocate for petitioner submits that the present petition is for Succession Certificate in respect of certain **debts** belonging to the deceased no. (1) viz. Tayebji Moosaji Lakdawala who died at Mumbai on 11.09.2020. Copy of death certificate is annexed at Exhibit -'A' to the petition. Copy of the identification proof of the deceased is annexed at Exhibit "A1" to the petition. And deceased no. (2) viz. Khorsheed Tayabji Lakdawala alias Tasneem T. Lakdawala alias Tasneem Lakdawala who died at Mumbai on 26.05.2020. Copy of death certificate is annexed at Exhibit -'B' to the petition. Copy of the identification proof of the deceased is annexed at Exhibit "B1" to the petition.

In the cause title with respect to deceased no. 2 at line no. 2 from the bottom it is mentioned as " time of His death". Advocate for the petitioner submits that he may be permitted to carry out correction in the cause title by replacing the word "her" in place of the word "his". He will upload the corrected version and request that reverification may be dispensed with. The said request is accepted. Advocate for the petitioner is permitted to carry

out the correction in the cause title with respect to replacing the word “her” in place of word “his” forthwith. He will upload the corrected version. Reverification is dispensed with.

2. Advocate for petitioner submits that both the said deceased ordinarily resided at Flat No. B102, 1st floor, B Wing, Baitul Huda Building, Hall Road, Kurla (West), Mumbai 400070 and/or left property within Greater Bombay and in the State of Maharashtra.

3. Advocate for petitioner submits that both 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 both the deceased surviving as **their** only heirs next-of-kin according to **Muslim Personal Law, Sunni Muslim the following persons** are mentioned in para no. 4 of the said petition.

5. Advocate for the petitioner submits that the **p**arents of both the deceased predeceased the deceased. Both the deceased left no son and no daughter.

Advocate for petitioner submits that both the deceased left behind them (1) Ibrahim Moosaji Lakdawala (brother of the deceased no. 1/brother in law of deceased no. 2) who died as bachelor on 25.11.2013. (2) Ismail Moosaji

Lakdawala ((brother of the deceased no. 1/brother in law of deceased no. 2) who died as bachelor on 18.10.2011.(3) Mariyam Kutiyawala (sister of the deceased/sister in law of deceased no. 2) who died as spinster on 12.12.2014. (4) Husainibhai Moosaji Lakdawala (brother of deceased no. 1/brother in law of the deceased no. 2) who predeceased both the deceased as bachelor on 30.1.2016, (5) Fizza Moosaji Lakdawala (sister of the deceased no. 1/sister in law of deceased no. 2) who died as spinster on 24.1.2022, (6) Yusuf Moosaji Lakdawala (brother of the deceased no. 1 / brother in of deceased no. 2/petitioner herein), (7) Amina Huned Merchant (sister of the deceased no. 1/sister in law of deceased no. 2). 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.

Advocate for petitioner submits that Amina Huned Merchant had given their consent for issuance of succession certificate in favour of Yusuf Moosaji Lakdawala.

The consent affidavits are annexed as page no. 21 to 23.

6. Advocate for Petitioner submits that being the **brother of deceased no. 1 and brother in law of deceased no. 2** claims to be entitled for **2/3rd** and **sister of deceased no. 1/sister in law of the deceased no. 2)** claims to be **entitled for 1/3rd** share in the estate left by the deceased.

Advocate for the petitioner submits that she may be permitted to carry out correction in para no. 5 to the petition with respect to share of the sister of the deceased no. 1 claims to be entitled for ~~1/3rd~~ share in the estate left by the deceased. She will upload the corrected version and request reverification may be dispensed with. The said request is accepted. Advocate for the petitioner is permitted to carry out correction forthwith in para no. 5 with respect to share of the sister of the deceased no.1 claims to be entitled for 1/3rd share in the estate left by the deceased. She will upload the corrected version. Reverification is dispensed with.

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 **03.05.2024** in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated **14.06.2024** for proving General Notice filed through e-filing and Administration Bond dated **28.06.2024** also filed through e-filing.

Advocate for the petitioner request permission to carry out correction with respect to the claim amount in the Administration Bond. She will upload the corrected version and request that reverification may be dispensed with. The said request is accepted. Advocate for the petitioner is permitted to carry out correction with respect to claim amount in the Administration Bond. She will upload the corrected version. Reverification is dispensed with.

12. This petition is filed for grant of Succession Certificate in respect to the **debts** 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 **debts** 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.
- 3) The petitioner to file an account as undertaken in the Administration Bond within stipulated period. Necessary endorsement be made on the Administration Bond, subject to satisfaction of the Department.

Office to issue grant as soon as Advocate for the petitioner carry out correction with respect to cause title , share of the petitioner and claim amount in the Administration Bond.

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**