

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

FOR COMPLIANCE:

81.TP/2270/2024 P. C Shri. Siddharth Desai Ld. Advocate for the Petitioner

[Original]

(ECHCBM020368
72024)

1) This is a petition for grant of Letters of Administration, under the Provisions of Indian Succession Act, 1925 (for short "IS Act") for the properties left by the deceased, namely Dr. Sitaram Sakharam Bhakare (For short "Said deceased"). The petitioner, namely (1) Aishwarya Sitaram Bhakare and (2) Vandana Sitaram Bhakare, have filed documents such as true copy of the death certificate of the deceased, identity proof of the deceased, oath in the prescribed format, affidavit of service citation.

2) I have heard Ld. Advocate and perused the petition along with the documents. This petition was kept along with TP/2635/2024. Ld. Advocate for the petitioner submitted that issue involved in another TP/2635/224 is distinct and not related to the present petition. He further submitted that he will take appropriate steps in another petition 2635/2024 as per the law. Therefore, it is necessary to pass the order in this petition for grant of Letters of Administration.

3) Said deceased died as a Widower on 23/05/2018 at Nanded, leaving behind him legal heirs, shown in the paragraph No. 4 of the petition. Petitioners state that there are no other legal heirs to the deceased, except heirs shown in the petition. Deceased left properties shown in the schedule. The delay has been explained vide Rule 382 of the Rules.

4) Citation was issued, which has been duly affixed on the

conspicuous part of the Hon'ble High Court and notice board of the Collector's Office at Mumbai and 14 days have been expired vide Rule 397(1) and (4) of the Bombay High Court(O.S.) Rules, 1980(for short "BHC Rules") and an affidavit to that effect has been filed. Notice to collector has been issued vide Rule 396 of BHC Rules. Till today, no one appeared to resist the claim of the petitioner or nothing is brought to the notice regarding pending litigation pertaining to the same properties. Hence, the petition is treated as uncontested one.

5) Legal heir except petitioners, is minor daughter of the deceased and the petitioner No.2. In view of the order passed in the Testamentary Petition No. 1701 of 2017, there is no requisition to justify the share of minor legal heir, as the petitioner is the birth parent of said minor.

6) Petitioners have filed the administration Bond in prescribed form No. 118 with surety.

7) Ld. Advocate for the petitioner submitted that as per the Section 8 r/w Rule -1 of Section 10 of the Hindu Succession Act, 1956, word widow covers the petitioner no. 2. Furthermore, this office need not to determine the right between the parties. Submission is accepted. Proper Court will have Jurisdiction to determine the right of the parties.

8) Ld. Advocate for the petitioners submitted that in view of provisions of the Hindu Succession Act, 1956, the petitioner No. 1 being daughter and petitioner No. 2 being widow of the deceased, are entitled to seek a Letters of Administration. 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 Letters of Administration be granted to the petitioners for properties, left by the deceased and shown in the schedule, in prescribed format as per the provisions of the Indian Succession Act, 1925.
- 2) The petitioners to file an account as under taken in a Petitioner's Oath within stipulated period.
- 3) Before issuance of the grant, the office to verify that there is no cross Petition is pending or caveat resisting the petition is filed.

09th September, 2024

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