

**BEFORE : MRS. R.V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE : 15th July'2024**

Sr. No. – 38 TP/2554/2024

(ECHCBM02198552023)

Ms. Jyoti Budgujar, Advocate i/b. S. U. Lakdawala for the petitioner.

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 no. (1) viz. Hirji Bachu Shah alias Hirji B. Shah alias Hirji Shah alias Hirji Bachbuhai Shah who died at Mumbai on 22.05.2010. Copy of death certificate is annexed at Exhibit -'A' to the petition. Copy of the identification proof of the deceased is annexed at Exhibit "B" to the petition. And deceased no. (2) viz. Nenshi Bhachu Gala alias Nenshi Bachubhai Shah alias Nenshi B. Shah who died at Mumbai on 05.04.2013. Copy of death certificate is annexed at Exhibit -'C' to the petition. Copy of the identification proof of the deceased is annexed at Exhibit "D" to the petition.

2. Advocate for petitioner submits that the said deceased No. 1 ordinarily resided at B/91/92, Silver Apt, S. G. Marg, Dadar Prabhadevi, Mumbai, 400 028 and left property within Greater Bombay and in the State of Maharashtra and elsewhere in India.

Advocate for petitioner submits that the said deceased No. 2 ordinarily resided at at F/703, Gundecha Garden, Lalbaug, Mumbai 400 012 and left property within Greater Bombay and in the State of Maharashtra and elsewhere in India.

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 **Hindu Succession Act, 1956** are mentioned in para no. 4 of the said petition.

5. Advocate for the petitioner submits that both the deceased are real brothers. The petitioner further sbmits that Nenshi Bhachu alias Samat Shah alias Gala alias Nenshi Bhachu Gala alias Nenshi B. Gala alias Nenshi Bachubhai Gala are one and the same person i.e. (in Mumbai and in native place wherein out of respect it is mentioned as “bhai” as well as in native place as per their profession used as “Gala” whereas in Mumbai it was changed to “Shah”). Copy of the gazette is annexed as Exhibit “H” to the petition.

Advocate for the petitioner submits that the wife of deceased no. (1) viz. Diwaliben Hirji Bachu Shah died on 10.06.1991. Copy of the death certificate is annexed as Exhibit “E” to the petition. The mother of deceased no. 1

viz. Lakhaima Bachubhai shah died on 17- 11-1981. Both pre-deceased the Deceased

Advocate for petitioner submits that the deceased no. (1) left behind him two son viz. Rajendra Hirji Shah (son of deceased no. 1/petitioner no. 1) and Shamji Hirji Shah (son of deceased no. 1/petitioner 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 the petitioner submits that the wife of deceased no. (2) viz. Kunverben Nenshi Gala died on 06-10-2016. Copy of the death certificate is annexed as Exhibit "F" to the petition. The mother of deceased no. 1 viz. Lakhaima Bachubhai shah died on 17- 11-1981. Both pre-deceased the Deceased.

Advocate for petitioner submits that the deceased no. (2) left behind him only son viz. Ramnik nenshi Gala (son of the deceased/petitioner no. 3). 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 petitioner no. 1 and petitioner no. 2 being the **sons** of deceased No. (1) claims to be entitled for **1/2** share in the estate left by the deceased no. (1).

Advocate for Petitioner submits that petitioner no. 3 being the only **son** of deceased No. (2) claims to be

entitled for **full** share in the estate left by the deceased no. (2).

Advocate for the petitioner submits that she may be permitted to carry out correction in para no. 9 with respect to the word “petitioner” will be corrected as petitioner no. 1 and 2 and in para no. 10 with respect to the word “petitioner” will be corrected as petitioner no. 3. Advocate for the petitioner submits that she will upload the corrected version and reverification may be dispensed with. request that The said request is accepted. Advocate for the petitioner is allowed to carry out correction. Advocate for the petitioner 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 **15.06.2024** in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated **28.06.2024** for proving General Notice filed through e-filing.

Advocate for the petitioner submits that *“pursuant to the order dated 2.2.2024 passed by the Hon’ble Shri Justice Manish Pitale, in Testamentary Petition No. 2918 of 2023, direction was given to the Registry in case of all the surviving legal heirs of the deceased are petitioners before the Court and the right or interest of no other legal heir is required to be protected, the department shall not insist on furnishing Administration Bond. Hence, Administration Bond is dispensed with”*.

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**