

Before : Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date :- 29th June, 2024

FOR ISSUANCE OF CITATION :

16. TP/2782/2024
[Original]
(ECHCBM02067412024)

P. C. : Shri. Malcolm Vaz i/b Pareshtar Parakh Ld. Advocate
for the Petitioner

1. Perused petition. The petitioner no. 1, Maryanne Dabreo(widow) is the constituted attorney of petitioner no. 2, Meyrick John Dabreo (son). 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. 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 the 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. In present petition, the petitioner no. 1 and 3 are entitled to apply for Letters of Administration and therefore, the petitioner no. 1 can not 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.

3. Furthermore, vide Rule 418 of the Bombay High Court (O. S.) Rules, 1980, the petitioner no. 1 Maryanne Dabreo(widow) and 3 Myron Mark Dabreo (Son) are entitled to get general grant and therefore, limited grant can not be issued to them for the use for the petitioner No.2, unless the Hon'ble Court grant a relief to the petitioner No. 1, in this regard. Hence, the petitioners to take steps. Hence, adjourned.

4. S. O. to 10.07.2024

29.06.2024

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