

Santosh

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

TESTAMENTARY PETITION NO. 2782 OF 2024

1. Maryanne Dabreo
2. Meyrick John Dabreo
3. Myron Mark Dabreo ...Petitioners

Michael Anthony Dabreo ...Deceased

Mr. Pareshtar Parakh, a/w Malcom Vaz, for the Petitioners.

**CORAM: N. J. JAMADAR, J.
DATED : 9th OCTOBER, 2024**

PC:-

1. Heard the learned Counsel for the petitioner.
2. This Petition is filed for Letters of Administration to the property and credits of Michael Anthony Dabreo. The petitioner No.1 has filed the petition for himself and also in the capacity of the Constituted Attorney of petitioner No.2.
3. On 29th June, 2024, the Department has raised an objection that Petitioner No.1 Maryanne Dabreo, who has filed the Petition for herself as well as in the capacity of the constituted attorney of Petitioner No.2, cannot be granted a limited grant in the capacity of the constituted attorney of petitioner No.2 as Petitioner No.1 is entitled for general grant in her own right. Reference is made to the provisions contained in

Section 243 of the Indian Succession Act, 1925 and Rule 418 of the Bombay High Court (Original Side) Rules, 1980.

4. Rule 418 of the Bombay High Court (Original Side) Rules, 1980, reads as under :

“**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.”

5. Rule 418 governs a 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.

6. 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. 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.

7. 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.

8. Office objection dated 29th June, 2024 thus stands dispensed with.

9. Department to now proceed with the Petition, in accordance with law.

[N. J. JAMADAR, J.]