

Before : Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date :- 14th August, 2024

FOR COMPLIANCE :

92. TP/2813/2024 P. C. : Ms. Priyanka Chhipa i/b Nahush Shah Legal Ld.
[Original]
(ECHCBM0223187
2023)

Advocate for the Petitioner

1. Ld. Advocate for the petitioner submitted written submission dated 08.08.2024 and thereby submitted that administrative Suit having 302/2023 has been filed before the Hon'ble Court. Interim application having (L)3084/2020, the Hon'ble High Court issued directions and thereby restrained the defendant no. 1 from entering the name of Defendant no. 2 in the Societies record as owner until the Will propounded by Defendant no.2's Probate. It is also submitted that petition filed by the Defendant no. 2 having TP(L)9486/2020 came to be dismissed vide an order dated 08.02.2023 of Prothonotary and Senior Master under Rule 986 of the Bombay High Court (O. S.) Rules, 1980. Hence, considering all these circumstances as well as provisions Section 212, 213 and 218 of the Indian Succession Act, 1925, it will be proper to issue citation in the petition. Furthermore, Defendant No. 2 in the administrative Suit was aware about this petition and has appeared on 18.07.2024 through his Ld. Advocate.

2. Furthermore, petitioner in para no. 7 of the petition averred that husband of the deceased also does not have any legal heirs. Furthermore, in view of the statement made in paragraph no. 9 of the

petition, it appears that, it would be proper to issue citation Hence, following Order;

3. Perused Petition. Issue Citation within two weeks from the date of uploading of this order. Issue Notice to the Collector as per **Rule 396** of the Bombay High Court (O. S.) Rules, 1980. Issue citation to the non-consenting legal heirs of the deceased, if any. Advocate is directed to take steps and ensure that requisition under chapter XXVI of the Bombay High Court (O. S.) Rules, 1980 (for short “BHC Rules”) are complied with.

4. Advocate to take steps regarding Service of General Citation as per **Rule 397** of the BHC Rules and also effect service upon non- consenting legal heirs, if any, as per Rules **399 and 400** of the BHC Rules and also justify the surety of non-consenting legal heirs, if any, and furnish Administration Bond, **for Gross amount**, vide **Rule 420** of BHC Rules, within one week thereafter, if there are other legal heir including the petitioner.

5. Office to verify if any cross petition is filed, if cross petition file, then take steps to place before the Hon’ble Court under **Rule 407** of BHC Rules.

6. S. O. 15.10.2024

14.08.2024

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