

BEFORE : MRS. R. V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE: 25th September, 2024

CALLED FOR COMPLIANCE :

**Sr. No. 37 – TP / 3014 / 2024
(ECHCBMo2046262024)**

Mr. Pranav Khatkul i/b. Mr. Janu Gulati, Advocate for petitioner.

1. Perused Petition. Heard Ld. Advocate for petitioner. In the present petition Preliminary objection raised as:

“Since legal heir of higher degree is available, how petitioner can file the present petition, obtain orders from Testamentary Registrar”

Pursuant to the order dated 03.01.2023 in TPL/ 9847/2022 following order passed by Arif S. Doctor J.:

“9. Ld. Advocate for the petitioner submits that mother of the petitioner is senior citizen and suffering from ailments and hence, the petitioner may be allowed to proceed with the present petition. She also submits that the mother of the petitioner will be filing her consent affidavit in the present petition. In the circumstances the present petitioner i.e. grand child of the uncle of the deceased may be allowed to proceed with the petition.”

In view of the above order passed by the Hon’ble Court. Advocate for petitioner prays that in the present petition also filed on same ground, as mother of the deceased i.e. Taraben Bhupatlal Sheth is 86 years old and suffering from ill health and she has given her consent Affidavit dated 26.11.2024 for issuance of Succession Certificate in favour of the petitioner.

In view of the above order passed by the Hon'ble Court i.e. on TP (L) 9847/2022. I am proceeding with the present petition.

2. This petition is for Succession Certificate in respect of certain Debts and Securities belonging to the deceased viz. Bharat Bhupatlal Sheth alias Bharatkumar Sheth alias Bharatkumar Sheth, who died at Vantli, Gujarat on 03.07.2002. Copy of death certificate is annexed at Exhibit- 'A' to the petition. Copy of Identification proof of deceased is already annexed at Exhibit- 'A-2' to the petition.

3. Advocate for petitioner submits that the said deceased at the time of his death had a fixed place of abode at 522, Vantli, Junagadh, Gujarat 362610, and left the property within Greater Mumbai in the State of Maharashtra and elsewhere in India.

“The Hon'ble Court (CORAM : Hon'ble Shri Manish Pitale J.) on 29th September, 2023 passed direction in TP No. 233 of 2022 in which the Hon'ble Court decided the issue of jurisdiction under Section 371 of Indian Succession Act and decided the Jurisdiction of this Hon'ble Court.” In view of the order dated 29th September, 2023, the present petition proceed further.

4. Advocate for petitioner submits that, the said deceased died intestate and that due and diligent search has been made for the Will but none has been found.

5. Advocate for petitioner submits that the legal heirs left behind by the deceased surviving as his only heirs next-of-kin according to Hindu Succession Act, 1956 are mentioned in para no. 4 of the said petition.

6. Advocate for the petitioner submits that the father of the deceased predeceased the deceased. Deceased died as bachelor. Advocate for petitioner submits that the deceased left behind his mother and one brother viz. Taraben Bhupatlal Sheth and Dhiren Bhupatlal Sheth. 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 petitioner submits that Taraben Bhupatlal Sheth (Mother of the deceased) had given her consent for issuance of succession certificate in favour of the petitioner viz. Dhiren Bhupatlal Sheth (brother of the deceased). The consent affidavits are annexed as page no. 21-24 to the petition.

7. Advocate for Petitioner submits that the Petitioner is the brother of the deceased claims to be entitled to 1/2 share of the estate of the deceased abovenamed. The mother of the deceased is entitled to the other 1/2 share of the estate of the deceased abovenamed.

8. 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.

9. 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.

10. 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.

11. Advocate for the petitioner submits The Petitioner was not aware of obtaining any legal representation. He is recently informed by his Advocate to obtain legal representation and so there is delay in filing this Petition. The delay so caused may be condoned. In view thereof, delay is condoned.

12. Advocate for the petitioner submits that the General Notice was issued on **26.07.2024** in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated **14.08.2024** for proving General Notice filed through e-filing and Administration Bond dated **17.08.2024** also filed through e-filing.

13. This petition is filed for grant of Succession Certificate in respect to the **Debts and 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 **Debts and 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.

- 3) The petitioner to file an account as undertaken in the Administration Bond within stipulated period. Necessary endorsement be made on the Administration Bond, subject to satisfaction of the Department.

25.09.2024
Ajay

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**