

**BEFORE : MRS. R. V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE : 3rd October'2024.**

Sr. No.15- TP/3442/2024
(ECHCBM02085412024)

Mr. S. Lakdawala a/w. Ms. Jyoti Badgujar a/w. Mr. Jayant Wani, Advocates i/b. Lakdawala & Co. for the petitioner.

For Compliance

It has been observed that the name of the deceased is mentioned as Roshan Pesotan Patel. Advocate for the petitioner submits that she is also known as Roshan Pesi Patel. Advocate for the petitioner submits that he may be permitted to carry out correction in cause title of the petition and para no. 1 of the petition as "Roshan Pesotan Patel alias Roshan Pesi Patel". He will upload the corrected version. He request that reverification may be dispensed with. The said request is accepted. Advocate for the petitioner is permitted to carry out correction in cause title and para no. 1 of the petition as "Roshan Pesotan Patel alias Roshan Pesi Patel" and upload the corrected version. Reverification is dispensed with.

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. (i) viz. Roshan Pesotan Patel alias Roshan P. Patel alias R. P. Patel alias Roshan Pesi Patel

who died at U.S.A. on 01.04.2020. 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. (ii) viz. Dhunjisha Fardunji Bhathena alias Dhunjisha F. Bhathena alias D. F. Bhathena, who died at Pune on 16/03/2011. 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. (i) Roshan Pesotan Patel ordinarily resided at 844, Blairmoor Court, Grosse Pointe, Woods, Michigan, 48236, U. S. A. and left property within Greater Mumbai.

Advocate for petitioner submits that the said deceased no. (ii) Dhunjisha Fardunji Bhathena, ordinarily resided at F No. 901/A-8, Ganga Satelite Wanowri Pune 411 040 and left property within Greater Mumbai.

Pursuant to the direction passed by the Hon’ble Court in TP No. 233 of 2022 the issue of jurisdiction under section 371 of the Indian Succession Act is decided. It is decided that, this Hon’ble Court is having Jurisdiction if, the Securities/Debts lies in the Jurisdiction of this Hon’ble Court. This Court is having jurisdiction to proceed with the matter. Since, the Hon’ble Court has decided the issue of the Jurisdiction petition can be proceeded.

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 **Indian Succession Act, 1925** are mentioned in para no. 4 of the said petition.

5. Advocate for the petitioner submits that the **parents of the deceased no. 1 predeceased the deceased. The husband of deceased no. (I) viz. Pesotan Earuchshah Patel died before 1975.**

Advocate for the petitioner submits that deceased no.1 and deceased no. 2 are real brother and sister.

Advocate for petitioner submits that the deceased no. (i) left behind him son viz. (a) Pauras Pesi Patel (son of the deceased) died on 06.07.2020. Copy of the death certificate is annexed as Exhibit "E" to the petition. He left behind him (a-i) Parizad Pauras Patel (daughter in law of the deceased/petitioner no. 1/wife of deceased son)(a-ii) Vaspan Pauras Patel (grandson of deceased no. (i)/ son of deceased son), (a-iii) Zarvan Pauras Patel (grandson of the deceased/son of deceased son). 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 Vaspan Pauras Patel and Zarvan Pauras Patel had given their consent for issuance of succession certificate in favour of Parizad Pauras Patel (petitioner no. 1).

The consent affidavits are annexed as page no. 24 to 27

Advocate for the petitioner submits that the deceased no. (2) Dhunjisha Fardunji Bhathena left behind him daughter and son viz. (1) Goolshan Yezdi Mogal (married daughter of the deceased no. 2/petitioner no. 2) and (2) Farrokh Dhunjisha Bhathena (son of the deceased 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 petitioner submits that Farrokh Dhunjisha Bhathena had given his consent for issuance of succession certificate in favour of Goolshan Yezdi Mogal (petitioner no. 2).

The consent affidavit is annexed as page no. 21 to 23.

6. Advocate for Petitioner submits that being the **daughter in law** of deceased no.1 claims to be entitled for **1/3rd** share in the estate left by the deceased.

Advocate for Petitioner submits that being the **married daughter** of deceased no. 2 claims to be entitled for **1/2** share in the estate left by the deceased.

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 **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 **13.09.2024** also filed through e-filing.

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.
- 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.

Office to issue grant as soon as Advocate for the petitioner carry out correction in the cause title and para no. 1 of the petition.

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**