

BEFORE : MRS. R. V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE: 27th September, 2024

Sr. No. 37 – TP / 3505 / 2024
(ECHCBM02117722024)

Ms. Jyoti Pardeshi i/b. M/s. Wadia Ghandy and Co., Advocate
for petitioner

Called for Compliance

Advocate for the petitioner submits that the petitioner may be exempted from payment of Court Fees as they have already paid court fees in the earlier petition in which the grant of Succession is issued and the Court Fees which is paid in present petition may be refunded back.

Advocate for the petitioner submits that Payment of court fees in Testamentary Petition No. 3505 of 2024 be exempted in view of the payment of maximum court fees already paid in another Testamentary Petition No. 371 of 2021 which has been filed in respect of similar property in both petition, which is jointly held by the abovenamed two deceased and Court fees paid in present Testamentary Petition No. 3505 of 2024.

Advocate for petitioner as per provision of Section 23 of the Bombay Court Fees Act, 1959, which read as under:

Section 23: Whenever a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act

when a property belonging to the same estate. Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

Hence submission for exemption of Court Fees is accepted. Advocate for the petitioner can file appropriate application before the Hon'ble Court for refund of court fees paid in present petition.

In view thereof I proceed with grant.

1. Perused Petition. Heard Ld. Advocate for petitioner. This petition is for Succession Certificate in respect of certain Securities belonging to the deceased viz. Kalyan Krishna Mitra alias Kalyan K. Mitra alias Kalyan Mitra, who died at Mumbai on 28.08.2018. Copy of death certificate is annexed at Exhibit- 'A' to the petition. Copy of Identification proof of deceased is already annexed at Exhibit- 'B' to the petition.

2. Advocate for petitioner submits that the said Deceased ordinarily resided at Laxmi Building, Flat Nos. 3 & 4, 2nd Floor, 35/37, Kennedy Bridge, Opera House, Mumbai- 400004 and left property within Greater Mumbai and in the State of Maharashtra.

3. Advocate for petitioner submits that the legal heirs left behind 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. **Advocate for petitioner is**

directed to specify the shares of petitioner in the estate of the deceased.

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 son of the deceased Mr. Jaideep Kalyan Mitra have filed an application for Succession Certificate for the Securities said set-out in the Schedule annexed to the present petition and the said petition by on 11th June, 2021. The Hon'ble Court has issued Succession Certificate in favour of its Mr. Jaideep Kalyan Mitra. Advocate for the petitioner submits that, before execution the said Succession Certificate is passed away from 25th November, 2023 the order of Succession Certificate is annexed to Exhibit D and E respectively.

Advocate for the petitioner submits that, the during his lifetime, the Deceased's son, Mr. Jaideep Mitra had filed an application before this Hon'ble Court for obtaining a succession certificate in respect of the securities as set out in the schedule hereto annexed (Petition No. 371 of 2021). By its order dated 05th May, 2021, the Hon'ble Court directed the Office to issue a

succession certificate in favour of Mr. Jaideep Mitra. On 11th June, 2021, the concerned office of the Hon'ble Court issued the Succession Certificate in favour of Mr. Jaideep Mitra. Before the said securities could be formally transmitted in favour of Mr. Jaideep Mitra. Before the said securities could be formally transmitted in favour of Mr. Jaideep Mitra however, he passed away on 25th November, 2023. Annexed as Exhibit "C", "D" and "E" are copies of the said order dated 05th May, 2021, certified copy of the Succession Certificate dated 11th June, 2021, death certificate of Mr. Jaideep Mitra dated 13th December, 2023 respectively.

7. Advocate for the petitioner submits that, the the deceased only surviving legal heirs viz. Reba Kalyan Mitra (widow of the deceased), Dipika Kalyan Mitra (daughter of the deceased / Petitioner) and Shilpi Jaideep Mitra (Daughter-in-law of deceased). The deceased has left no other son or daughter or issue of any predeceased son or daughter.

8. Advocate for Petitioner submits that the petitioner as the daughter of deceased claims to be entitled 1/3rd share in the estate left by the deceased.

9. 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.

10. 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.

13. 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.

14. 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 **09.08.2024** for proving General Notice filed through e-filing and Administration Bond dated **06.08.2024**.

15. 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 upload the Administration Bond.

**COMPANY REGISTRAR /
*TESTAMENTARY REGISTRAR***

