

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

CALLED FOR COMPLIANCE :

Sr. No. 38 – TP / 3544 / 2024
(ECHCBM02115612024)

Mr. Sameer R. Logade, Advocate for petitioner.

1. Perused Petition. Heard Ld. Advocate for petitioner. This petition is for Succession Certificate in respect of certain Securities belonging to the deceased viz. Shirin Behram Irani alias Shirin Irani, who died at Mumbai on 29.04.2003. Copy of death certificate is annexed at Exhibit- 'A' to the petition. Advocate for petitioner submits that since the identification proof of the deceased is not available they have filed Affidavit dated 31.05.2024 for dispensation of identification proof of the deceased. After perusal of the same it is found that the petitioner has mentioned that they had taken due case and diligent search but the said identification proof of the deceased is not available with them. Hence, the petitioner request that they may be permitted to file the present petition without the identification proof of the deceased. The said request is accepted. Copy of Affidavit of dispensation of identification proof of the deceased is annexed at Exhibit – 'B' to the petition.

2. Advocate for petitioner submits that the said deceased ordinarily resided at 2/5 Zubeda Mansion, Prabhat Colony, Santacruz (East), Mumbai - 400 055 and/or left certain Securities in the State

of Maharashtra and elsewhere in India.

3. 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.

4. Advocate for petitioner submits that the legal heirs left behind by the deceased surviving as **her** 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 predeceased the deceased. Advocate for the petitioner submits that husband of the deceased viz. Behram J. Doneshwar (Irani) died on 12.6.1988. Copy of the death certificate is annexed as exhibit "C" to the petition.

Advocate for petitioner submits that the deceased left behind him sons and daughter in law viz. Hormazd Behram Doneshwar alias Hormazd Behram Irani (Petitioner / son of the deceased), (2) Shahzad Behram Doneshwar alias Shazad Behram Irani (son of the deceased) since died on 29.8.2010 left behind him (2a) Naaz Shahzad Doneshwar (Daughter-in-law of the deceased/wife 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 viz. Naaz Shahzad Doneshwar (Daughter-in-law of the deceased) had given her consent for issuance of succession certificate in favour of Hormazd Behram Doneshwar alias Hormazd Behram Irani (Petitioner / son of the

deceased).

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

6. Advocate for Petitioner submits that the petitioner is son of the deceased claims to be entitled to the 50% share of 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. That the abovenamed Petitioner was ignorant and not aware of any Legal Representation for obtaining Grant of such Succession Certificate and the said Petitioner recently came to know in respect of the securities, so possessed by the deceased abovenamed. Hence, the delay, if any, in filing the Petition for Succession Certificate, may please be condoned for the sake of Natural Justice. Thus, the delay is explained.

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 **12.08.2024** for proving General Notice filed through e-filing and Administration Bond dated **02nd August, 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.

27.09.2024

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**