

Before : Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date :- 17th August, 2024

FOR ISSUANCE OF CITATION :

51. TP/3855/2024 P. C. : Shri. V. N. Mishra Ld. Advocate for the Petitioner
[Original]
(ECHCBM0207934
2024)

1. Perused petition. It appears that petitioner no. 1 has filed the petition for himself and petitioner no. 1 being a constituted attorney of SUSHANT SHANTARAM SURVE, NISHA MANGESH CHAVAN and NE,ETA SHAILENDRA GHAG, (i.e. petitioner no. 2, 3 and 4 respectively) has filed the petition. However, petitioner no. 1 is entitled for the general grant but constituted attorney of petitioner no. 2 to 4 are entitle for the limited grant vide Section 243 of the Indian Succession Act, 1925. For the sake of contention of Section 243 of the Indian Succession Act, 1925 and Rule 418 of the Bombay High Court (O. S.) Rules, 1980 are reproduced as under :

Section 243 of Indian Succession Act, 1925

Section 243 - Administration to attorney of absent person entitled to administer in case of intestacy.

When a person entitled to administration in case of intestacy is absent from the State, and no person equally entitled is willing to act, letters of administration may be granted to the attorney or agent of the absent person, limited as mentioned in section 241.

2. The petitioner no. 1 is the constituted attorney of petitioner no. 2 to 4. Hence, in view of Sec 243 of the Indian Succession Act, 1925 (for short "IS Act"), unless requisite conditions fulfilled, petition can not be entertained to grant limited Grant. Such conditions are (1) the heir of the deceased is absent from the state (2) the

person applying the attorney of the absent heir and (3) there is no other heir of the deceased is willing to act or apply.

3. In present petition, the petitioner no. 1 is entitled to apply for Letters of Administration and therefore capacity of the Power of Attorney of other legal heirs (Petitioner no. 2 to 4) to present the petition vide Section 243 of the Indian Succession Act, 1925 comes in question, as legal heirs of the deceased is willing to act and he already applied to Letters of Administration.

4. Hence, Petitioner to satisfy that under Section 243 of the IS Act, 1925 petition on behalf of Petitioner NO. 2 to 4 can be entertained. Hence, adjourned.

4. S. O. to 28.08.2024

17.08.2024

**Officer on Special Duty,
with Testamentary Department**