

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
TESTAMENTARY AND INTESTATE JURISDICTION

**TESTAMENTARY PETITION NO.4083 OF 2024**

Farhat Banu Kassia @ Khalifa and Others ...Petitioners

And

Mohamed Zubir Abubakar Khalifa ...Deceased

Mr. V.P. Shastri, for the Petitioners.

**CORAM : N. J. JAMADAR, J.**

**DATE : DECEMBER 20, 2024**

**P.C.:**

1. Heard the learned counsel for the petitioners.
2. Petitioner No. 1 to 4 have filed this petition for Letters of Administration to the Property and Credits of Mohammed Zubair Abubaker Khalifa (the deceased). The petitioner No. 1 has filed the petition for herself and also in the capacity of power of attorney of petitioner Nos. 2.
3. The department has raised an objection that petitioner No. 1 who has filed the petition for herself as well as in the capacity of the constituted attorney of petitioner Nos. 2, cannot be granted a limited grant in the capacity of the constituted attorney of petitioner Nos. 2 as petitioner No. 1 is entitled for general grant in her own right. Reference is made to the provisions contained in Section 243 of the Indian Succession Act, 1925 and Rule 418 of the Bombay High Court (Original Side) Rules, 1980.

4. Rule 418 of the Bombay High Court (Original Side) Rules, 1980, reads as under :

“**Rule 418.** Limited grant not to be issued to person entitled to general grant – Unless otherwise ordered by the Judge in Chambers, a limited grant shall not be issued to a person who is entitled to a general grant of administration to the property of the deceased.”

5. Rule 418 governs the situation where a person entitled to the general grant seeks a limited grant. *Ex-facie*, Rule 418 does not cover a case where a person, who is entitled to general grant, files a petition for himself and also for other heirs in the capacity of the latter's constituted attorney. The prohibition is also not absolute. The Judge in Chambers is empowered to allow even a limited grant being issued to a person who is entitled to a general grant of administration to the property of the deceased.

6. Evidently, the petitioner No. 1 has filed and verified the petition for herself and also in the capacity of the constituted attorney for petitioner No. 2. The power of attorney executed by petitioner No. 2 in favour of petitioner No. 1 contains full authorization. In a sense, petitioner Nos. 2 has agreed to be bound by the actions and decisions of petitioner No. 1. Even otherwise, petitioner Nos. 1, 3 and 4 are seeking Letters of Administration in their individual capacity as well.

7. Therefore, neither Section 243 of the Indian Succession Act, 1925, nor Rule 418 of the Bombay High Court (Original Side) Rules,

1980 constitutes an impediment in granting Letters of Administration to Petitioner Nos. 1, 3 and 4 in their individual capacity and petitioner No. 1 as a constituted attorney of petitioner No. 2.

8. Office objection thus stands dispensed with.

9. Department to now proceed with the Petition as an uncontested Petition and, if all the requirements are fulfilled, issue grant in favour of the Petitioners as expeditiously as possible, in accordance with law.

(N. J. JAMADAR, J.)