

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

MISC. PETITION NO. 227 OF 2024

Nisar Ahmed Rahimatullah Shaikh ...Petitioner

Rehmatullah Hamidullah Shaikh alias
Shaikh Rahematula Hamidatula alias
Rehmatullah Shaikh ...Deceased

Mr. Manoj Mane, for the Petitioner.

CORAM: N. J. JAMADAR, J.
DATED: 14th AUGUST, 2024

PC:-

1. Heard the learned Counsel for the petitioner.
2. This is a petition for grant of heirship certificate under Section 2 of the Bombay Regulation VIII of 1827.
3. Rehmatullah Hamidullah Shaikh alias Shaikh Rahematula Hamidatula alias Rehmatullah Shaikh (the deceased) was the father of the petitioner. The deceased passed away on 18th August, 1996. At the time of his death, he had a fixed place of abode at 202/2972/8B, Tagore Nagar, Vikhroli East, Mumbai-400 083.
4. In the petition, it is averred that the deceased died intestate and despite diligent search no testamentary writing or Will has been found. The deceased had left behind the widow,

four sons and four daughters. One of the sons, Anwar Rahimatullah Shaikh, has since passed away leaving behind the heirs mentioned at Sr. Nos.3-a to 3-g in the table at paragraph 4 of the petition. The widow of the deceased also passed away on 3rd February, 2020. Copy of the death certificate is annexed at Exhibit-B. Copy of the death certificate of Anwar Shaikh, the son of the deceased, is annexed at Exhibit-C. It is further averred that one of the daughters, Jaha Ara Gaus Mahommad Khan, predeceased the deceased, on 30th October, 1987. Copy of her death certificate is annexed at Exhibit-D.

5. It is asserted in the application that, since the said daughter had predeceased the deceased, her heirs are not entitled to any share in the estate of the deceased. It is averred that apart from the heirs, particulars of whom are furnished in the table at paragraph 4 of the petition, there is no other legal heir. Heirship certificate is required to produce the same before the Maharashtra Housing and Area Development Authority.

6. I have perused the averments in the petition. The averments in the petition find support in the documents annexed to the petition. Copies of the death certificate of the deceased, his widow, Khushnudi Rahmatullah Shaikh, son Anwar Shaikh and daughter Jaha Ara Gaus Mahommad Khan

are annexed at Exhibits-A, B, C and D, respectively. It appears that apart from the heirs mentioned in the table at paragraph 4 of the petition, there are no other legal heir of the deceased. The other heirs have filed affidavits (pages 35 to 39) giving consent for the grant of heirship certificate. I do not find any impediment in granting the heirship certificate.

7. Petition stands allowed in terms of prayer clause (a), which reads as under:

“(a) That a Legal Heirship Certificate be issued under the provision of Bombay Regulation Act VIII of 1827 certifying that (1) Fahmida Ziauddin Khan (Married Daughter of the deceased), (2) Nisar Ahmed Rahimatullah Shaikh (Son of the Deceased and the Petitioner herein), (3) Nasim Bano Anwar Shaikh (Daughter-in-Law of the deceased), (4) Aafiya G. W/o. Gayaz (Grand Daughter of the deceased), (5) Naziya Arbaz Khan (Grand Daughter of the deceased), (6) Sabah Parveen' Anwar Shaikh (Grand Daughter of the deceased), (7) Shafaque Shamshar Alam Khan (Grand Daughter of the deceased), (8) Alina Anwar Shaikh (Grand Daughter of the deceased), (9) Ashra Anwar Shaikh (Grand Daughter of the deceased), (10) Roshanara Mohd Ayyub Shaikh (Married Daughter of the deceased), (11) Mukhtar Rahmatulla Shaikh (Son of the deceased), (12) Imtiyaz Shaikh S/o. Rahmatullah Shaikh (Son of the deceased), (13) Irshad Ahmad Rahmatullah Shaikh (Son of the deceased), (14) Gulshanara Rehmatullah Shaikh (Daughter of the deceased), (15) Anjum Ahmed Ansari (Married Daughter of the deceased), are the only heirs and Legal representatives of the deceased.”

8. Issue of proclamation is dispensed with.

9. The grant of heirship certificate is expedited.

[N. J. JAMADAR, J.]