

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

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MISCELLANEOUS PETITION NO. 314 OF 2024

Vijay Kumar Ishwarlal Desai ... Petitioner
vs.
Kalpana Vijaykumar Desai ... Deceased

Mr. Umeshchandra Tiwari, for Petitioner.

CORAM: N.J.JAMADAR, J.
DATE : AUGUST 13, 2024

P.C.

1. Heard the learned Counsel for the Petitioner.
2. At the outset, the learned counsel for the petitioner seeks leave to amend the petition so as to correct the prayer clause (a) of the petition.
3. Leave granted.
4. Necessary amendment be carried out forthwith.
5. This petition is filed for grant of heirship certificate under Section 2 of the Bombay Regulation VIII of 1827.
6. Kalpana Vijaykumar Desai (Deceased) was the wife of the Petitioner. She passed away on 26th January, 2023. At the time of her death, she had a fixed place of abode at Flat no. 53, Suhana Building Azad Road, Kamgar Kalyan Kendra Mumbai, Andheri (E), Mumbai - 400069.

7. In the Petition, it is averred that the deceased had died intestate, and despite diligent search, testamentary writing or Will has not been found. The deceased left behind the petitioner and her son Bhargav Desai, the particulars of whom are mentioned in paragraph No. 4 of the Petition.

8. The heirship certificate is required to lay claim over the properties left behind by the deceased.

9. I have perused the averments in the petition and the documents annexed to the petition.

10. The documents annexed to the petition lend support to the claim of the petitioner. It seems that the deceased passed away intestate. The petitioner and Bhargav Desai appear to be the only surviving Class I legal heirs of the deceased. Bhargav Desai has filed affidavit giving consent for granting heirship certificate.

11. Thus, I do not find any impediment in granting heirship certificate.

Hence, the following order :

ORDER

- (i) The Petition stands allowed in terms of prayer clause (a).
- (ii) The heirship certificate be issued in the name of Vijaykumar

Ishwarlal Desai and Bhargav Vijaykumar Desai, the heirs mentioned in the table at paragraph No. 4 of the petition.

(iii) Issue of proclamation is dispensed with.

(iv) Grant expedited.

(N.J.JAMADAR, J.)