



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISC. PETITION (L) NO.20581 OF 2024**

Namita Nivas d/o Alke Srinivas	...	Petitioner
versus		
Sarita Paritosh Nivas and Anr.	...	Respondents
 Alke Srinivas s/o A. Babu	 ...	 Deceased

Mr. S.A.Desai i/by Ms. Darshana Sapkal, for Petitioner.
Ms. Shraddha M. Komerkar for Respondent Nos.1 and 2.

CORAM: N.J.JAMADAR, J.

DATE : 14 NOVEMBER 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This petition is filed for grant of heirship certificate under Section 2 of the Bombay Regulation VIII of 1827.
3. Alke Srinivas (deceased) was the father of the Petitioner. The deceased passed away on 7 January 2022. At the time of his death, the deceased had a fixed place of abode at Mumbai.
4. The Petitioner avers that the deceased died intestate and despite diligent search, no testamentary writing or Will has been found. The deceased has left behind the Petitioner, Nandita – daughters and Paritosh Nivas – son, who passed away on 4 January 2023. The heirs mentioned at Sr. Nos.3A and 3B i.e. Sarita Paritosh and Shravya Nivas are the wife and daughter of Paritosh Nivas, since deceased son of the deceased. Nandita,

daughter of the deceased has filed an affidavit (Exhibit E) giving her consent for the grant of heirship certificate. Sarita and Shravya, wife and daughter of Paritosh Nivas, heirs mentioned at Sr. Nos.3A and 3B of the table, have also filed affidavits in reply. They have asserted that they have no objection to grant legal heirship certificate. However, in paragraph No.5 of the Petition, the Petitioner has prayed for transferring property in the name of the Petitioner i.e. right, title and interest in Flat No.402, 1st floor, D-67, Azad Nagar Panchsheel CHS, Azad Nagar, Veera Desai Road, Andheri (West), Mumbai – 400053.

5. The heirs at Sr. Nos.3A and 3B have, thus, contested the exclusive entitlement of the Petitioner to the said flat. It appears that the Petitioner has prayed for the heirship certificate to the effect that the heirs mentioned in the table at paragraph 2 are the legal heirs of the deceased. Hence, I do not find any impediment in granting heirship certificate.

6. So far as the apprehension on the part of heirs at Sr. Nos.3A and 3B, it would be sufficient to clarify that the heirship certificate does not confer title to any property. Nor does it affect the right, title and interest of any person in the property. Heirship certificate would be restricted to the formal declaration of the heirs mentioned in the table at Paragraph No.2 of the legal heirs of the deceased.

7. Hence, the Petition stands allowed in terms of prayer clause (a) which

is reproduced hereunder :

“(a) That the Heirship Certificate may be granted certifying that Petitioner NAMITA NIVAS, D/o. Alke Srinivas, daughter of the deceased, NANDITA PANDHARKAME D/o. Alke Srinivas, the married daughter of the deceased, SARITA PARITOSH W/o. Paritosh Nivas, the Daughter-in-law of the deceased and SHRAVYA NIVAS D/o. Paritosh Nivas, the granddaughter of the deceased to be declared as the legal heir and legal representative of the deceased, Alke Srinivas S/o. A. Babu under the provision of Bombay Regulation Act VIII of 1827.”

8. Issue of proclamation is dispensed with.
9. Grant expedited.

(N.J.JAMADAR, J.)