

**Before :Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date 18th September, 2025**

FOR COMPLIANCE:

42. TP/1964/2024 P. Shri. Madhav Shah i/b Siddharth Desai Ld. Advocate for the
C. : Petitioner

1) This is a petition for grant of Letters of Administration, under the Provisions of Indian Succession Act, 1925 (for short "IS Act") for the properties left by the deceased, namely Fatima Valimohamad Kadiwal alias Fatima Valimohd Kadiwal (For short "Said deceased"). The petitioner, namely Atikurrehman Noor Mohammad Kadiwal, has filed documents.

2) I have heard Ld. Advocate. I perused the documents, such as true copy of the death certificate of the deceased, affidavit with document to dispense with requisition of identity proof of the deceased, oath in the prescribed format, affidavit of service citation.

3) Said deceased died as a Spinster on 14/11/2019 at Mumbai leaving behind her legal heirs, shown in the paragraph No. 4 of the petition. Petitioner states that there are no other legal heirs to the deceased, except heirs shown in the petition. Deceased left properties shown in the schedule-I of the petition.

4) Decesed was Sunni female Muslim died in year 2019 her mother and father was predeceased to her on 10th July 2017 and on 3rd July 2000, respectively. It is stated that grandparents of the deceased are pre-deceased the deceased. Deceased's father was having 3 brothers namely Ibrahim, Ali Mohammad and Dawood Ibrahim died in year 1951 leaving behind his 2 sons namely Abbas and Yousuf. Dawood died in year 1951 leaving behind his sons namely Noor and Ismail. Last brother namely Ali Mohammed died in year 1960 leaving behind his son namely Abdullah. Said Abdullah died in year 2020 living behind his sons

namely Amin & Hifzureehman.

5) Earlier petition was filed by Noor son of dawood. However, during pending the petition he died leaving behind his widow Jubeda and 9 children's including son and daughters. Whereas Ibrahim died leaving behind his 2 sons and daughter Kulsum. Dawood died leaving his 2 daughters namely Ayesha and rukia. Ali Mohammad has 2 daughters namely Maryam and Jaitun Ben Palsani.

6) Ld. advocate for the petitioner submits that in order of succession in Sunni law deceased has no son, son's son or ascendants such as father 2 grandfather descendants of father such as full brother full sister consueine brother and sister, full brothers son, consueine any brother son full brothers son son consueine brothers son son. However, the petitioner further states that descendant of true grandfather are also entitles to inherit the property left by the deceased. However, in such category full paternal uncle that is Ibrahim dawood and Ali Mohammad are pre-deceased to the deceased. There are no consueine paternal uncle. But under entry number 15 full paternal uncle's son that is Abbas, Yusuf, Noor, Ismail, Abdullah were alive at the time of death of the deceased and therefore, they are entitled to inherit the property in such capacity and by virtue of that provision. I have gone through the relevant provision particularly page number 88 from book namely Mullah principle of Mohmmmedian Law and law 23rd Edition published by Lexis Nexis reprinted in year 2024. Under circumstances submission is accepted and therefore, I proceed to grant the petition by issuance of letters of administration as prayed for.

7) Citation was issued, which has been duly affixed on the Notice Board of the Hon'ble High Court and notice board of the Collector's Office at Mumbai and 14 days have been expired vide Rule 397(1) and (4) of the Bombay High Court(O.S.) Rules, 1980(for short "BHC Rules") and an affidavit to that effect has been filed. Notice to collector has been issued vide Rule 396 of BHC Rules. Till today, no one appeared to resist the claim of the petitioner or nothing is brought to the notice regarding pending litigation pertaining to the same properties. Hence, the petition is

treated as uncontested one.

8) Legal heirs of the deceased have consented by way of Affidavits to grant prayer of petitioner to grant a Letters of Administration, without reserving any right. Legal heirs have accepted the facts, regarding their relationship, inter-se.

9) Petitioner has filed the administration Bond in prescribed form No. 118 with surety.

10) Ld. Advocate for the petitioner submitted that in view of provisions of the MOHAMMEDAN LAW-(SHARIAT) ACT. 1937, the petitioner, being Nephew (Cousin Brother) of the deceased, is entitled to seek a Letters of Administration. Hence, facts stated by petitioner and heirs of the deceased, on oath, remained unchallenged and required to be accepted. Accordingly, petition deserves to be allowed, as prayed for. Hence, following order:

ORDER

- 1) Petition is allowed and the Letters of Administration be granted to the petitioner for properties, left by the deceased and shown in the schedule, in prescribed format as per the provisions of the Indian Succession Act, 1925.
- 2) The petitioner to file an account as under taken in a Petitioner's Oath within stipulated period.
- 3) Before issuance of the grant, the office to verify that there is no cross Petition is pending or caveat resisting the petition is filed.

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