

Before :Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date 01st August, 2025

FOR COMPLIANCE:

54. TP/291/2025 P. Shri. Neville Deboo Ld. Advocate for the Petitioner
[Original] C. :

(ECHCBM02111862
024)

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 Gopalbhai Makanbhai Rathod alias Gopalbhai M Rathod alias Gopal Makan Rathod alias Gopal M Rathod (For short "Said deceased"). The petitioner, namely Ishvarbhai Khalapbhai Rathod, 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 married on 28-12-2012 at Bhayander, Dist. Thane leaving behind him 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. The delay has been explained vide Rule 382 of the Rules.

4) 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.

5) One Miscellaneous Petition was filed having no. 598/2016 before CJSD, Thane (Ramesh Rathod & Ors. Vs. Kuwarjibhai K. Rathod & Ors.) for recognition of heirs of the deceased (Gopalbhai). However, it is rejected as they could be legal heirs of the deceased as per the Section 08 of the Hindu Succession Act, 1956, being they were Uterine Brothers and sisters. Ld. Advocate for the petitioner submits that property is devolved upon the widow as per Section 08 of the Hindu Succession Act, 1956, after her death in 2014 as there are no heirs of the husband falling under Section 15(1) (b) r/w Section 8 of the Hindu Succession Act, 1956, property would further devolved upon mother and father of the widow, vide Section 15(1) (c) of the Hindu Succession Act, 1956. However, parents of the widow of the deceased pre-deceased the deceased. Hence, property would devolved upon the widow's fathers heirs vide Section 15(1) (d) r/w Rule 3 of Section 16 of the Hindu Succession Act, 1956. Hence, petitioner is claiming heirs of the deceased.

6) 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.

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

8) Ld. Advocate for the petitioner submitted that in view of provisions of the Hindu Succession Act 1956, the petitioner, being Brother-in-Law 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.

01st August, 2025

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