Before : Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date :- 25th April, 2025

FOR HEARING :

65. TP/613/2025 (AMH20240006848C202400003)	P. C. :	Shri. Kurnal Vijay Sampat Ld. Advocate for the Petitioner

1. Ld. Advocate for the Petitioner has relied upon the Order passed by the Hon'ble Court in TP/2881/2019 by which petition was allowed to proceed even deceased no. 1 and 2(husband and wife) had not held property jointly.

2. In present petition, the deceased no. 1 is having property along with Son situated within local limits of Pune, whereas the deceased no. 2 is having immovable property within local limits of the Mumbai. Hence, both the deceased, do not have any joint property in their names.

3. I have called the record and proceeding of the Testamentary Petition No. 2881 of 2019. Upon perusal of the schedule-I of the petition, it appeared that the immovable property mentioned at Serial No. 1 in the said petition (TP No.2884 of 2019) was held by the deceased No. 1 and 2, jointly. Hence, in the cited case, the Letters of administration of the both the deceased was maintainable.

4. However, circumstances and fact of the said case, does not similar to the present case. Furthermore, in present case, valuation of the petition and payment of the Court fee will another subject, which needs to be considered, as both deceased had independent properties, Sec. 23 of the Maharashtra Court Fee Act, 1959 (for short 'said Act") will not be applicable. Hence, both valuation of the properties of the deceased are required to be considered independently. Sec. 23 of the said Act is reproduced as under, -

> ***"23. Relief in case of several grants.***— *Whenever a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or*

any part of the same property belonging to the same estate.

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates."

5. Even otherwise, in the other case, having TP No.(L) 6752/2021 the Office has moved the submission on relying upon the cited Order. It was the subject of the said submission that the petition for joint share and debenture held by the husband and wife was filed. Though some shares and debentures were held by those deceased jointly, all share and/or debentures were not held by the deceased husband and wife jointly. Hence, department has moved a submission and sough necessary directions in this regard. It has been directed that in petitioners for grant of Letters of Administration or Succession Certificate, as the case may be, some properties have been held by the deceased jointly, but all properties are not held jointly by the deceased then such petition for joint properties of the deceased husband and wife is entertainable and single fee is to be charged, in such cases.

6. However, in the present petition, no property is held by the deceased No. 1 and 2 jointly. Hence, facts of cited case are different than the present petition.

7. Hence, the petitioner to properly valued the Petition, independently or take steps to file the petition for the set of independent properties of the deceased.

6. S. O. to 06.05.2025

25.04.2025

Officer on Special Duty,
with Testamentary Department