

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO. 4444 OF 2024

Sherry Khubchand Bhatia

...Petitioner

Sameer Kumar Bhatia

...Deceased

Adv. G. I. Sodhi a/w Ramprakash Pandey for the Petitioner.

CORAM : ARIF S. DOCTOR, J.

DATE : 11TH FEBRUARY, 2025

P.C.:-

1. The office on 13th December, 2024 has raised the following requisition:

"1. Perused Petition. Heard Ld. Advocate for petitioner. Ld. Advocate for petitioner to produce death certificate because Exhibit – 'A' at page No. 11 of the petition is not death certificate and the same is cremation certificate with cremation authorization number.

2. Furthermore, Service is effected on 30.11.2024 and statutory period of 14 days is yet to be completed."

2. Learned Counsel appearing on behalf of the Petitioner submits that the Petitioner has filed an Affidavit setting out as to why the death certificate of the deceased is not available.

3. On perusal of the said Affidavit sets out that the deceased passed away in the United States of America on 27th March, 2008 and at the time of his death had a fixed abode at 8241, SE, 67th Street, Mercer, Island, WA 98040, United States of America.

4. Learned Counsel submits that after the death of the deceased, the funeral was conducted at Bleitz, King County, Washington State in the United States of America and the Public Health Seattle and King Country through medical examiner after reviewing the information of the death of the deceased, had given permission for cremation and pursuant thereto had issued a release to cremate certificate dated 27th March, 2008. He also points out that the death of the deceased has been clearly recorded in the said cremation certificate.

5. Thus, there is sufficient proof of the death of the deceased. Learned Counsel submits that the Petitioner, who is father of the deceased had not then applied for a formal death certificate and now after the lapse of 16 years, it is difficult for the Petitioner to do so, especially since the Petitioner is 83 years old and facing several health issues.

6. Having had due regard to the averments in the said Affidavit, I find that sufficient cause has been shown to waive the requisition raised by the Registry. Hence, in light of what is stated in the Affidavit, aforesaid requisition is dispensed with.

7. The office is directed to proceed without the death certificate of the deceased in accordance with law.

(ARIF S. DOCTOR, J.)