

**Before :Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date 17th January 2025**

FOR COMPLIANCE:

72. TP/5083/2024 P. C. Shri. V. Y. Sanglikar Ld. Advocate for the Petitioner

[Original]

(ECHCBM0223700
2023)

- 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 Ruhangiz Hifazeth Ali Mirza (For short "Said deceased"). The petitioners, namely (1) YABIR AKBARALI JETHA, (2) YAKIR AKBARALI JETHA, have filed documents.
- 2) I have heard Ld. Advocate. I perused the documents, such as true copy of the death certificate of the deceased, identity proof of the deceased, oath in the prescribed format, affidavit of service citation.
- 3) Petitioner states that the marriage of the petitioner and deceased solemnized and registered under the provisions of the Special Marriage Act, 1872 and certificate is annexed at Exhibit -B. As per the Section 51(2) (a) of the Special Marriage Act, 1954, it has to be deemed that said marriage is solemnized under the new act. Hence, Section 22A of the said Act applies, which has to be read with Section 33A of Indian Succession Act, 1925.
- 4) Said deceased died as a Widow on 30-07-2010 at Mumbai leaving behind her legal heirs, shown in the paragraph No. 4 of the petition. Petitioners state 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.
- 5) Citation was issued, which has been duly affixed on the conspicuous part 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.

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) Petitioners have filed the administration Bond in prescribed form No. 118 with surety.

8) Ld. Advocate for the petitioners submitted that in view of provisions of the Indian Succession Act, 1925, the petitioner, being Sons of the deceased, are 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 petitioners 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 petitioners 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.

17th January 2025

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