

TESTAMENTARY PETITION NO.5932 OF 2024

- "1. Petitioner is presented for Letters of Administration to the property and credits of Jaykishan Mukundrai Contractor by petitioners namely, Shobha Jaykishan Contractor (Widow), (2) Ameet Jaykishan Contractor (Son and (3) Yateesh Jaykishan Contractor (Son) for themselves. Furthermore, the petitioner No. 2 and 3 being constituted attorney of Jigna Ajay Kuttavilla(daughter of the deceased) also joined the present petition for grant of limited Letters of administration vide Sec. 243 of the Indian Succession Act, 1925 (for short "IS Act").*
- 2. Provision of sec. 243 of IS Act is reproduced as under,-*
"243. Administration to attorney of absent person entitled to administer in case of intestacy.— When a person entitled to administration in case of intestacy is absent from the State, and no person equally entitled is willing to act, letters of administration may be granted to the attorney or agent of the absent person, limited as mentioned in section 241."
- 3. Hence, as per Sec. 243 of the IS Act, if no person entitled to administration of the property is absent and other equally entitled person is not willing to administer the property, then power of attorney of the absent heir can present the petition. However, in present case, the petitioner Nos. 1 to 4 have already presented the petition for grant of the Letters of administration.*
- 4. Hence, Petitioner to take necessary steps in respect of the petition filed by (2) Ameet Jaykishan Contractor(Son) and (3) Yateesh Jaykishan Contractor (Son) being power of attorney holder of Jigna Ajay Kuttavilla, though petitioners No.1 to 3, who are equally entitled persons are willing to act as a administrator, according to law."*

4. However, having due regard to the fact that all legal heirs of the deceased are the Petitioners and the fact that Petitioner No.4 is a resident of Canada, the aforesaid requisition is dispensed with.

(ARIF S. DOCTOR, J.)