

**BEFORE : MRS. R. V. RANE ,
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
Date: 24th February, 2025**

CALLED FOR COMPLIANCE :

17 TP/6047/2024 (E-filing)

Mr. Anand Tiwari i/b. Pandya and Poonawala, Advocate for petitioner

PC : 1. Perused Petition. Heard Ld. Advocate for petitioner. Ld. Advocate for petitioner seeks permission to carry out the corrections in the petition with respect to order dated 04.01.2025 as place of death of deceased are not mentioned in para No. 1 of the petition. The said corrections are allowed. Ld. Advocate for petitioner to carry out corrections forthwith. At the request of Ld. Advocate for petitioner, re-verification is dispensed with. Ld. Advocate for petitioner to re-upload the corrected version of the petition.

2. Ld. Advocate for petitioner submits that the present petition is for Succession Certificate in respect of certain Securities belonging to the deceased No. 1 namely Zarina H. Daginawala a.k.a. Zarina Daginawalla, who died at Mumbai on 29.02.2012. Copy of death certificate is annexed at Exhibit- 'A' to the petition. Copy of identification proof of the deceased no. 1 is annexed at Exhibit – 'C' to the petition.

Deceased No. 2 namely Hasan Kurban Husain Daginawala a.k.a. Hasan Daginawalla a.k.a. Hasan Daginawalla, who died at Mumbai on 19.12.2015. Copy of death certificate is annexed at Exhibit- 'B' to the petition. Copy of identification proof of the deceased no. 2 is annexed at Exhibit – 'D' to the petition.

3. Ld. Advocate for petitioner submits that both the deceased were ordinarily resided at 73, Sarang Street, 2nd Floor, Room No. 28, Mumbai – 400 003

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and 73, Sarang Street, 1st Floor, Room No. 2, Mumbai – 400 003, respectively and left property in the State of Maharashtra.

4. Ld. Advocate for petitioner submits that the said deceased died intestate and that due and diligent search has been made for the Will but none has been found.

5. Ld. Advocate for petitioner submits that both the deceased left behind them only legal heirs shown in the paragraph No. 4 of the petition, as per the provisions of the Mohammedan Law applicable to Dawoodi Bohra Shia Muslims.

6. Ld. Advocate for petitioner submits that parents of both the deceased predeceased the deceased. Deceased was survived by two sons namely Aliasagar Hasan Daginawalla (petitioner No. 1) and Mustafa Hasan Daginawalla (petitioner No. 2). Deceased left no daughter and no other son. Save and except there are no other legal heirs and next of kind left by the deceased, which is mentioned at para no. 4 of the petition.

7. Ld. Advocate for Petitioner submits that petitioners are being sons of deceased claims to be entitled for ½ share in the estate left by the deceased.

8. Ld. Advocate for petitioner submits that, there is no impediment under Section 370 of the Indian Succession Act, 1925 or under any other provision of this Act or any other enactment to the grant of the certificate of the validity thereof if it was granted.

9. Ld. Advocate for petitioner submits that no application has been made to any District Court or District Delegate or to any High Court for probate of any Will of the said deceased or for letters of administration with or without the Will for annexed to their property and credits.

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10. Ld. Advocate for petitioner submits that no application has been made to any District Court for Succession Certificate in respect of any debt or security belonging to the estate of the deceased.

11. Ld. Advocate for the petitioner submits that delay in filing this petition be condoned as the concerned authority asked for Succession Certificate recently for transferring the shares in the name of legal heirs. In view thereof, delay is condoned.

12. Advocate for the petitioner submits that the General Notice was issued on 04.01.2025 in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated 23.01.2025 for proving the service of General Notice filed through e-filing.

Ld. Advocate for the petitioner submits that “pursuant to the order dated 2.2.2024 passed by the Hon’ble Shri Justice Manish Pitale, in Testamentary Petition No. 2918 of 2023, direction was given to the Registry in case of all the surviving legal heirs of the deceased are petitioners before the Court and the right or interest of no other legal heir is required to be protected, the department shall not insist on furnishing Administration Bond. Hence, Administration Bond is dispensed with”.

13. This petition is filed for grant of Succession Certificate in respect to the securities which was mentioned in Schedule-I which is annexed to the petition. The petitioner has complied all the necessary compliance for grant of the Succession Certificate in favor of the petitioner. Hence, facts stated by petitioner, on oath, remained unchallenged and required to be accepted. Accordingly, petition deserves to be allowed, as prayed for. Hence, following order :

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ORDER

- 1) Petition is allowed and the Succession Certificate be granted to the petitioner for certain securities left by the deceased and shown in the Schedule-I, in prescribed format.
- 2) Before issuance of the grant, the office to verify whether any cross Petition is pending or Affidavit resisting the petition is filed.
- 3) Office to issue grant as soon as after filing of the corrected version of the petition on the official portal of the Bombay High Court and the same is approved by the Registry.

24.02.2025**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**